

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 22, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 22, 2003, at 12:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter (out @ 4:13), Vice-Chair; James Barfield (out @ 3:19 returned @ 4:06); Ray Warren; John W. McKay Jr.; Bill Johnson; Ronald Marnell; Don Anderson (out @ 4:13); Elizabeth Bishop (in @ 1:03); Jerry Michaelis; Jerry McGinty; David Wells; Frank Garofalo. Morris K. Dunlap was not present. Staff members present were: Dale Miller, Secretary; Donna Goltry, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; and Rose Simmering, Recording Secretary.

1. Annexation Overview Workshop, presentation David Barber.

Dave Barber gave an overview presentation to the Commission on annexation procedures as prescribed by the Kansas State Statutes. The two basic types of annexation (request and unilateral) were explained, and the roles of the Planning Commission in the annexation process were reviewed.

2. Comprehensive Plan/Wichita Land Use Guide Discussion, presentation David Barber.

MAPD staff explained to the Commission that the Wichita Land Use Guide map needs to be updated and adjusted to reflect: development that has occurred over the last couple of years; necessary adjustments to the small city growth areas; and, adjustments to Wichita's 2010 and 2030 urban service areas to reflect revised population and employment projections, as well as recent annexations of neighboring small cities. Staff also discussed some of the limitations and problems with the present Wichita Land Use Guide Map format, and proposed a functional use classification approach for consideration by the Commission. Staff also suggested creating a new 2003 Wichita Existing Land Use Map that could be used in conjunction with the proposed Functional Land Use Map. An example of what the proposed functional use categories would look like was prepared for in a 16 sq. mi. area of northeast Wichita. The Commission provided staff with their thoughts and comments on the proposed functional land use approach. The Commission directed staff to proceed with these adjustments, including the functional land use approach. MAPD staff will be meeting with the Advanced Plans Committee on a regular basis to review progress on these updates to the Wichita Land Use Guide Map.

3. Approval of MAPC meeting minutes May 8, 2003

MOTION: That the minutes for May 8, 2003 be approved.

MICHAELIS moved, **COULTER** seconded the motion, and it carried (13-0).

4. Consideration of Subdivision Committee Recommendations

4-1. SUB2003-37 – Preliminary Plat – STOCKYARD INDUSTRIAL PARK ADDITION, located on the north side of 21st Street North and east of Broadway.

- A. **City Environmental Health Department** has advised that this site is located in the North Industrial Corridor which may require access to the property for continued pollution site monitoring. The owner shall permit access to the property for any environmental study.
- B. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage concept. **A cross-lot drainage agreement is needed.**
- E. Access controls need to be platted along 21st St. North. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the plat's text. **MAPC approved the existing westernmost access opening on Lot 2. A cross-lot access easement is needed for the benefit of Lot 3. The existing opening located approximately 80 feet from the east property line is approved for right turns in/out only. The easternmost opening on the property shall be closed.**
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.

- G. A cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. **MAPC has approved a 30-ft contingent dedication of right-of-way along the frontage of the property with the exception of the existing structure to the west.**
- I. **City Engineering** requests a dedication of 35 feet of half-street right-of-way along 25th Street North.
- J. The applicant shall guarantee the future paving of the south half of 25th Street North.
- K. The Applicant is advised that the interior side yard setback for Lot 3 appears to be under 5 feet. This setback must be 5 feet if provided to conform with the Zoning setback standard for the GI, General Industrial District. The interior property line between Lots 2 and 3 may need to be relocated.
- L. **County Surveying** has noted that easements need located definitely with respect to the subdivision.
- M. **County Surveying** has requested a legal description.
- N. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- O. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- P. As requested by the City Clerk, the City Council certification needs to include a signature line only, rather than referencing the "City Manager".
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- AA. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

GENE RATH, MKEC Engineering Consultants, Inc., The item is the plat of the Stockyard Industrial Park Addition, the main reason the property is before you today and is being platted is because there is an existing auto salvage facility or operation on part of the property operating under an existing Conditional Use permit and the auto salvage business has expanded beyond the limits of the Conditional Use permit. We are in to process of applying for an expanded Conditional Use permit and that will be on your Agenda in June.

Planning staff asked the owner to go ahead and plat the property as a part of the Conditional Use permit process and where the expansion of the area of the salvage operation would be. The plat has gone through the subdivision process and we are in agreement with most of the staff comments and the subdivision requirements but there are three things that we are not in agreement with. Those three items are the Environmental Phase II requirement, the right-of-way requirement, and the access control issue. Item A, E, and H in the staff report. I have some slides to go through to show you now.

Planning staff asked that Lot 3 have no access to 21st Street from Lot 3 but instead Lot 3 would have access only through a cross – lot access agreement through Lot 2. The owner has agreed to that part of it. But back to the east what the Subdivision requirement was that one drive to this facility could remain open for one year and then after that point the only drive that the property would have would be the one main entrance. We are asking that this easterly portion of the property be allowed to continue to have a least one drive and it not be limited to one year and if necessary it could be limited or restricted such that if the building is torn down then access control could be granted.

The right-of-way there is 30 feet of half street right-of-way today and staff has asked for 60 feet and subdivision recommended that only the west portion where the building is be contingent and that the rest of the right-of-way be granted outright. We would prefer that none of it be granted at this time, however the owner is maybe agreeable to granting it contingently upon the buildings on both ends being torn down and if necessary contingent upon the City needing that.

Regarding the Environmental Health concern it is my understanding that the requirement that was approved by Subdivision is that since this site is in what is called the north industrial corridor, access may be required to the property for a continued pollution site monitoring. I don't think that is a problem of providing any sort of access to the site. There are monitoring wells already on the site. I don't know to the extent of what environmental testing has been done but certainly the owner has no problem with access and whatever testing needs to be done and ongoing. The owner would like to extend water and sewer to two buildings as well.

MCKAY You said Phase II environmental investigation you have monitoring wells on the property now?

RATH That is correct they have monitoring wells on the property now.

MCKAY Is the Phase II environmental a step back if they have already gone to the point of monitoring wells on the property?

JOHNNY STEVENS, OWNER OF THE PROPERTY The State of Kansas has been out there for over 10 years with monitoring wells. The State has a lot of information on the ground water for the whole northeast industrial district and we couldn't understand the request for a Phase II environmental since they have way more information than I could give them in a Phase II. There is 6 or 8 wells on the property now.

WARREN That east opening that goes into a currently existing building being used now. The concern from the Subdivision Committee meeting was the concern of the railroad tracks and the proximity of that access to those tracks would it work out for you if that was a right turn only if you want to keep it as a permanent access so you they wouldn't be turning left immediately into those tracks?

STEVENS The eastside opening I could close it is just that I have to have that opening where that ramp comes down into the street. I have to leave that otherwise there is no access to that building without me tearing the ramp up.

WARREN What will be the extent of the use of that ramp?

STEVENS So people pull the cars up there to get tires fixed.

WARREN It wouldn't be parking. It is just a use ramp then something you would drive in there for a service. That is the only opening you are asking for on the east side there?

STEVENS That is right in the middle of the building then I don't need the access until I get to that center one.

WARREN You could use the westerly one that has been approved. On the ramp one then could you or be agreeable to put a right-in, right-out?

STEVENS Probably not, I would have to talk to him because he has a lease so I would have to get his approval before I could do any of this as far as restricting his access.

WARREN The concern was the stacking that goes. As I understood it that it is not a through line. It is a line that they use to make up cars and things like that. They stack out here in the street and they consider it a problem.

STEVENS Who stacks up in the street?

WARREN Cars trying to go east that are on the south side of that street are stacked up in there and you have a guy trying to come out and the south side of the street is already loaded. Seems to me like you would have to turn right anyway.

STEVENS He probably does. I could go talk to him and see what he says.

MARNELL Dale, who put the Phase II environmental requirement on here in the staff comments?

MILLER That is a request from the Health Department. Joe Lang is here and may be able to explain that. Jack Brown had another meeting so he was not able to be here.

NEIL STRAHL, Planning Staff presented staff report. The subdivision committee on May 1st approved this preliminary plat and the three conditions the applicant is appealing are: The Health Department requirement, and the access requirement, and the right-of-way requirement. The Health Department requirement was changed somewhat from the original request which the Health Department had asked that the Phase II environmental investigation be completed prior to any development and/or construction. That language was revised to state that the Phase II environmental study is needed and no obstruction which impedes the completion of that study be allowed.

The access control issue can be viewed on this slide with these four yellow arrows indicate the existing driveways. There is an existing driveway on the westernmost lot for Lot 3. There is a driveway to the east of that for the salvage yard and an eastern most one right along side the railroad tracks and one to the west of that. The driveway to the west serving Lot 3 was required to be closed and the applicant will need to utilize this existing opening to access Lot 3 so we are asking for a cross-lot access from this lot over to Lot 3. My understanding is the applicant is acceptable with that condition. However the easternmost opening right here which adjoins the railroad tracks was required to be closed do to safety concerns. The driveway just west of that is the one that was allowed by the Subdivision Committee on a temporary basis for one year. That is what the applicant wants to keep open permanently.

Regarding the right-of-way issue, the existing right-of-way is 30 feet and subdivision regulations require 60 feet. Due to the existing structure along the west the subdivision committee was receptive to just requiring a contingent 30 foot dedication along that portion of the site. The rest of the site to the east of that structure would need an outright 30 foot right-of-way dedication.

GAROFALO What was the rationale behind the one-year requirement?

STRAHL I think you would have to address the Subdivision Committee on that.

WARREN May be to elevate the hardship on the applicant because he has a building there and it would take some time to get a secondary or service road from that main entry over to that building. I was at Subdivision Committee meeting and I am leaning now as leaving it as a permanent drive particularly where that ramp is involved and quite honestly that ramp didn't show up in our Subdivision Committee hearing or I didn't realize that is what it is. I would now be in favor of keeping it on a right-in, right-out only permanently.

BARFIELD How many cars are we talking about?

BISHOP The railroad tracks are there and that is 21st Street what are the plans for enhancement or are there any plans for grade separation between the railroad and how much space is that going to need?

STRAHL Traffic Engineering is here today and they would plan on addressing those types of questions.

WARREN That continued dedication underneath that building was to be triggered only by the voluntary removal of that building and if at any time that they wanted to improve 21st Street prior to that time then they would have to condemn and buy that building. That was the intent.

JAMSHEED MEHTA, Planning staff. There are three issues that I will present before you, right-of-way, driveway locations, and environment. From the transportation perspective we can speak to the first two. On the right-of-way two or three years ago in the City C.I.P. this street was scheduled for design in 2003 improvements and 2004, and 2005 about that time this was also the period when we were discussing railroad separation projects and in fact were saying MidKansas Engineering Company which was under contract to look at what could be done on 21st Street. Some of the suggestions were that we have an elevated 21st Street and have the railroad tracks continue as they are today instead of it being at grade so it will be grade separated.

While those discussions were going on it was decided let's move the scheduled C.I.P. from 2004 & 2005 to a later period and they pushed it all the way back to 2011 only because there was no decision yet made on how are we going to fund that project. The projections for this street regardless of that elevated project and whether it's connected to the Big Ditch to 25th Street and then across the Big Ditch to west 29th Street ... all of those reasons all together the projections are in the range of 27,000 to 28,000 cars per day and that is high for a five lane facility. This is a 60 foot wide total right-of-way today so it is only 30 feet on each side and even if you added that additional one-fifth lane you would be going into the adjacent properties so in terms of dedication yes we need to take the other 30 feet on the north side to at least get the full 60 on one side and we take the remaining from the south side properties later on.

So in terms of dedication staff is suggesting that you should be considering taking the dedication with this plat for the full 60 feet from the centerline and not keep it contingent upon what happens on the land use on the private property side because the need is on the transportation side on the right-of-way. So what trigger mechanism would you normally use to take your dedications and I think it is important that we do it at the time of platting because or else when could it be done. On the question of driveways and I think it is to an extent resolved for at least a few of these. The easternmost one the applicant has no problem terminating that and closing that. As I pointed out at Subdivision Committee meeting when the railroad safety gate comes down because there is a train on one of these four tracks and these are all active tracks none of them is a closed line that gate is actually pointing straight into the driveway. So if you are exiting that driveway and point south and you want to turn east in that direction that gate is pointing right at you so you don't really see that gate looking at you because you are looking at the barrel end of that gate. The applicant is agreeable to closing this. Your Subdivision Regulations are really calling out for 150 feet of corner clearance back from a railroad track and that has been a Subdivision Regulation since 1960.

The reason is if one or two vehicles were coming out or if this area was blocked and the vehicle comes out it is really blocking the westbound traffic then and if blocks the westbound traffic because there is another car stacked behind the closed gate at that time or there is a school bus or some other vehicle that is stopped at the railroad track regardless of the gate being done then that vehicle is stopping traffic in both directions. If you have 150 foot separation that is enough for stacking 3 or 4 vehicles and that is a safer zone which is why that second driveway which the applicant feels should be permanently left open and Subdivision Committee

decided that it should be only for one year ... staff's recommendation to you originally and I think still is that it is to close and it is only 90 feet from the active railroad line. If you take it 150 feet and by the way this building does not exist so it is not like it is going to go right into the building.

This building has been demolished and the existing car lot the cars are parked over here from this main driveway which is left open all the way up to here so it is really not being used as anything except an open field. This driveway we have already decided and the applicant has agreed will be merged into the main driveway. Now, on the question of what if they wanted to have two driveways yes you can achieve that. It is just that the locations aren't going to be exactly the same. If you go back 150 feet from the railroad line you end up with a driving opening somewhere over here where I am pointing.

That is your first driveway and if that is a right-in, right-out as you are suggesting that would be a great location and then you go 200 feet back which is approximately in the vicinity of this very open area where the driveway has been established to be and fine you can move it another 30-40 feet and you have got 200 feet back so the applicant does get two driveways, a right-in, right-out where we think is a safer place and a full movement driveway which is serving these properties anyways. So I don't think there is any loss of driveway if we follow that the applicant is adamant in having a driveway right where this arrow shows right now and I think this location is too close. Either you are too close to the railroad tracks or you are too close to the other driveway.

SCOTT LOGAN, TRAFFIC ENGINEER I was not here for the Subdivision Committee but have reviewed the request. The concerns that we have is that the movements in this approach area will somehow impact movements across those tracks. As you know any accident on a rail line is pretty severe and we want to avoid that from happening. That is why there is a 150 foot restrictions for access next to these rail crossings and you can see a number of rails. In terms of the activities along that drive what we see are a lot of cars pulling out of this area for purchasing tires as you can see there are three cars there and in a random parking situation. They pull in and out which is a concern for us along a major arterial street. What we would like is an ordinarily follow in and out of these areas and along a driveway. We are agreeable with the Subdivision Committee recommendations to leave this drive open. On 21st Street in this area though we have stable volumes the Planning Department has projected that these will increase with the 25th Street bridge construction that would attract more and more traffic along 21st Street.

BARFIELD Do you know how many sets of tracks that are there?

LOGAN There are four.

BARFIELD If I am not mistaken the three directly to the east of this are strictly used for storage tracks so there is basically no through trains coming through there.

LOGAN I am not sure what the activity along that line is but they have enough activity to put a single there so I suppose it is pretty active.

BARFIELD At the time that those signals were put there and that was the main track for Missouri, Kansas, and Texas, which has now been purchased by Union Pacific. Union Pacific now runs ninety-percent of their through trains on the track further east of this site of tracks. Those first three are used primarily for storage so I think where I do understand your concern, I think that we might be overly concerned about the rail traffic here at this particular location.

WARREN I agree.

MCKAY Other than the Phase II that I brought up, Jamsheed didn't you say that the building needs a 30 foot right-of-way and the Subdivision Committee gave a contingent through the building but these people only owns a third? This piece of platted ground is only a third of that building?

MEHTA I think that the plat that you have is probably cutting right through this building right now.

MCKAY The presentation was a third of the building is on the platted ground and the rest of it is on someone else's ground and separate ownership?

MEHTA Yes.

MCKAY Tell me how you are going to get a 30 foot dedication to a third of a building and the other guy says I don't want to do it what have you accomplished?

MEHTA The recommendations would be that you get your full dedication where there is no problem up to a point and then you just don't go into this building and make that contingent upon whatever the situation might be whenever the City needs to get into it. Or if this land use changes and this building is demolished and some other land use comes up. So there are two other conditions that would trigger that you can keep this building out of that dedication for now.

MCKAY Take your red line and go across the street and see how much vacant area there is that you could get that 30 foot dedication from. There is not a building that I can see that you could get that 30 foot and not encroach on any other.

MEHTA Correct and there hasn't been a whole lot of platting in the area in ages but now is the time when we are planning and programming in the C.I.P. the 21st Street project and this is a plat that is before you right now so what better timing is what I would think.

WARREN That contingent underneath that building would be subject to either the removal of the building or the activation of the 21st Street project and that is a little inaccurate because if in fact the 21st Street project comes along before they teardown that building then they have to condemn that land and it is not a contingent dedication that can be activated upon there wanting to put in 21st Street.

MEHTA I do not know the legal ramifications.

WARREN That is what we were trying to protect, we can't ask a guy to move his building and so the State would have to condemn that property and it would be contingent only if he removed the building voluntarily.

MCKAY If you give the City a contingent dedication and they want to go through there they are going to use that contingent dedication because he has agreed to it. A contingent dedication gives the City to go in there and exercise it.

WARREN They have absolute right to go in there they are just going to pay someone to do it. We are taking that 30 foot as a freebie which I think is illegal but we are going to do it. We are taking that 30 foot as a freebie except when we get to that building and we get to that building and the contingency can't be triggered by the State.

MCKAY Why not stop the dedication at the building ...period?

WARREN We could do that.

MCKAY Stop the dedication at the building.

WARREN There was some question that maybe they would voluntary take down that building someday then the dedication would be there.

MARNELL The building that is on the east of this property ... what is the access to that building?

MEHTA Right now the way that it is used is from here from the main entrance and there are all of these cars that are parked here basically driving behind those cars. The cars all face 21st Street for visual view for cars that are on sale and that is how you get. But those that are buying tires or get tires changed ... they are pulling in. This is kind of like open season. It is a very wide opening but there is a driveway that goes on the east side of the building and on the west side of the building they look like they are temporarily gated but entrance to the building so the patrons can actually come right here from 21st Street.

MCKAY If we take the right-of-way that is being requested here that takes that ramp out doesn't it and that blocks access to that building?

MEHTA I am not sure where the 30 feet comes out. It might be at the bottom of the ramp, or if it is halfway it would have to be arranged.

WARREN The two concerns that we had at the Subdivision Committee meeting was that if that building hadn't affected property there would no question we would have to leave it with that access. The second thing that we heard a lot of and haven't heard today is that this thing has been here since the turn of the century and nobody can really remember any real problem with cars and trains out there. It maybe a little cumbersome but I don't think there has been any really heavy accidents reports there.

BISHOP It has been pointed out to us that placing the bridge across the Big Ditch at 25th Street is probably going to increase traffic in that area along 21st Street.

WARREN But two openings there is not too many.

BISHOP A grade separation will increase it even more.

MCKAY Can we hear from legal on the Phase II requirement?

JOE LANG, LAW DEPARTMENT I have been working with both Environmental Health and Planning on language for this plat and for a Conditional Use that will be subsequently come to the Commission. We wanted to avoid too much restrictions in the plat as to environmental conditions and we don't think that is the appropriate place for that. But there was a need to at least get on the record that there are some environmental concerns up there. Neil has proposed the language just pointing out that a Phase II is needed and that nothing or no obstruction will be placed on the site that will prevent the Phase II. I know that thing has been studied to death up there but it has not been studied enough and there are still unidentified sources in the site and there will still be further testing and we want to make sure that nothing is done on that site that will further contribute to the groundwater contamination that there will be the opportunity to study before that site is developed or used in any way.

MCKAY There was a study that was done and that is why the monitoring wells went in, so anything that was created above and beyond that a Phase II will show and you are saying the landowner will be responsible for that because it wouldn't show up the first time and that is the cause for the problem?

LANG The plat doesn't identify who or when the Phase II will be done but it will be done by someone in the future. Phase II is going to be groundwater concerns and there are also soil concerns up in that area. I don't know what the monitoring wells have been used for and whether they are part of the N.I.C. I am not the technical person on this. You need to talk to someone from Environmental Health.

MCKAY You are saying that you are not requiring the landowner to do a Phase II Environmental to get his plat approved?

LANG As part of the plat a Phase II is not being required only that the use not prevent one.

BISHOP The language has changed from what we got in our packet.

MARNELL The building on the east ... Is that ramp the access for the effective use of that building?

STEVENS The problem is that I would move the ramp but it is almost impossible. There is a second story in that building from the half of the building going backwards and there is no way to put a ramp because the ceiling is too low in there without tearing out the second story and it is all concrete structure. It would be uneconomical to do that. As far as the right-in, right-out I didn't know that was an option so I didn't even talk to our tenant. The tenant may agree that is fine and I could accept that right-in, right-out with that drive but I can't close the drive or otherwise the building is worthless. As far as the environmental is concerned, what the gentlemen was saying about the environmental was that I couldn't build a building that would impede a Phase II. I don't know what that means. Do I have to go ask somebody if I want to build a building and then I have to go through all this bureaucracy to do decide if I am going to develop part of that property? I don't mind the limited access as long as I have access to that ramp and I will limit the access to that main drive but I am not willing to give any dedicated ground at this point just to get a plat approved because the only reason I am asking for the plat is because the City asked me to plat the property because I wanted a special use permit to expand the salvage yard. I am just going to jump to the next piece in the back and expand the salvage yard.

MOTION: To approve subject to staff comments except that the environmental study that the owner of the property will cooperate and will not deny access to the property for an Environmental study. Two, that he will change the dedication of street to a 30-foot contingent except where it is encumbered by a building and then there will be no dedication. Three, the drive into the building next to the railroad track be allowed to remain open indefinitely on a right-in, and right-out turn only. The two outside arrows would be closed and the two center arrows would remain open.

WARREN moved, MCGINTY seconded the motion.

BISHOP I am going to vote against the motion. A problem with the Environmental investigation and that someone does need to provide Mr. Stevens with an explanation of what "not providing any obstruction" entails. I do believe that if there is concern expressed that a further environmental study need to be done and that if paving would be an obstruction then he needs to be told. I think the access controls are reasonable and the contingent dedication is necessary along there.

MILLER He has an approved Conditional Use permit for a salvage operation. The thing that triggered this was an enforcement action and as part of the enforcement action his solution is to ask for more zoning. Since he already has an active use there he is expanding it so whether or not the Conditional Use is approved he would still be able to continue to operate and that is why we felt the plat should go forward separate from that second request.

BISHOP The Conditional use will be coming to us in two weeks?

SUBSTITUTE MOTION: To amend that the two east driveways be omitted ... the one to the furthest to the east to activation of the plat the second one to follow the recommendation of Subdivision Committee for one year and then that if the applicant wants to have two entrances then he follow Subdivision regulations and put the first one further to the east which would be 150 feet from the railroad right-of-way and then the other drive 200 feet to the west of that would be the second one.

MCKAY moved, GAROFALO seconded the motion.

SUBSTITUTE MOTION FAILS 6-7. (MARNELL, MCGINTY, WARREN, ANDERSON, HENTZEN, WELLS, BARFIELD opposed to the substitute motion.)

VOTE ON THE ORIGINAL MOTION: CARRIES 7-6. (MARNELL, MCGINTY, WARREN, ANDERSON, HENTZEN, WELLS, BARFIELD, in favor of the original motion.)

4-2. SUB2003-22 – Final Plat – WILLOWBEND NORTH ESTATES SECOND ADDITION, located west of Rock Road and south of 45th Street North.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. **A 20-ft drainage easement is requested along the east and west lines of the plat. A drainage guarantee is also required.**
- D. County Surveying has advised that the temporary utility easement needs located.
- E. County Surveying has advised that center line curve data is needed.
- F. The applicant shall guarantee the paving of the proposed interior streets. For Reserve B being platted for a private street, improvements shall be guaranteed for construction to a public street standard; however as private improvements, guarantees cannot be provided through the use of petitions.
- G. The right-of-way width of Barton Creek Circle may be reduced to 58 feet.
- H. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements",

a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.

- I. A covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities. The plat's text shall reference the platting of the reserve for private street purposes and shall state which specific lots are to be accessed by the reserve.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- K. It is recommended that Reserve A be extended to Barton Creek Circle by access easements or by narrow strips of Reserve between the lots to increase its accessibility and usefulness for all homeowners in the Addition.

An access easement has been platted as requested.

- L. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- M. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- N. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **MICHAELIS** seconded the motion, and it carried (13-0).

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **The sewage lagoon can not be in the drainage reserve.**
- B. The site is currently located within the Rural Water District No. 1. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and **County Code Enforcement** from the water district in that regard.
- C. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services. **In lieu of a petition, a No Protest Agreement shall be provided.**
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The applicant shall meet with County Engineering to discuss the need for a flood study.**
- F. **County Surveying** requests a better description on the benchmark.
- G. Access controls need to be revised in accordance with the Conditional Use approval. A temporary opening was approved along Webb until the establishment of a church-related use for the existing structure. A restrictive covenant shall be submitted that requires the closure of the existing opening along Webb upon the establishment of a new use. In addition, **County Engineering** requests complete access control along the west 150' of the frontage road east of Webb.
- H. The plat's text shall note the dedication of the street to and for the use of the public.
- I. In accordance with the Conditional Use approval, the applicant shall guarantee the paving of the frontage road to the entrance of the facility in addition to Webb Road.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- K. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.
- L. The lot does not meet the 200-ft lot width requirement which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard.
- M. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) The surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **MICHAELIS** seconded the motion, and it carried (13-0).

4-4. SUB2003-43 – One-Step Final Plat – ELIOT ADDITION, located west of Tyler on the south side of MacArthur Road.

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita. If the annexation is completed prior to the plat's submittal for City Council review, only City Council approval and not County approval will be necessary.
- B. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **A cross lot drainage agreement is needed.**
- E. **Traffic/County Engineering** needs to comment on the access controls. The plat proposes one access opening along MacArthur Road. **County Engineering and Traffic Engineering request that the drive should be located at the west property line in accordance with access management policy. The Subdivision Committee approved the access controls as proposed by the Applicant.**
- F. **Traffic Engineering** requests a contingent left turn lane.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- H. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- I. In the event the property has not been annexed prior to City Council review, the signature line for the County Commissioners Chairman needs to reference "Tim R. Norton".
- J. In the event this property has been annexed prior to City Council review, approval will not be needed by the County Commission, and the County Commission signature block may be deleted.
- K. As requested by the City Clerk, the City Council certification needs to be revised to include a signature line only, rather than referencing the "City Manager".
- L. **GIS** has requested that MacArthur Road be spelled correctly.
- M. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- N. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- O. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- P. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County

Engineer, and unobstructed to allow for the conveyance of stormwater.

- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **MICHAELIS** seconded the motion, and it carried (13-0).

4-5. SUB2003-45 – One-Step Final Plat –RICKEN ACRES ADDITION, located on the north side of 47th Street South, east of 231st Street West.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- C. **County Code Enforcement** and **County Engineering** should comment on the acceptability of the proposed alternative sewage system for these lot sizes and the need for a restrictive covenant addressing maintenance. **The alternative sewage system is approved. A restrictive covenant will be needed.**
- D. The site is currently located within the Rural Water District No. 4. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and **County Code Enforcement** from the water district in that regard.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- F. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan needs to be reviewed.**
- G. The applicant shall guarantee the installation of the proposed street to the 36-ft rock suburban street standard.
- H. **County Surveying** has advised that a complete legend is needed.
- I. **County Engineering** has requested 75' complete access control along 227th St West Circle from the south line of Lots 1 & 27.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.

- K. **County Fire Department** needs to comment on the street length of 227th St. West Circle (2,300 feet) Rural cul-de-sacs over 1,200 feet in length must provide a stub street connection or contingent street dedication providing future access to adjoining tracts. The Applicant has provided a 70-ft contingent dedication of street right-of-way extending to the east line of the plat in order to provide potential street connection to adjoining properties. **A street stub is required extending to the west to the 10-acre undeveloped site. Due to the length of the cul-de-sac, the contingent right-of-way to the east shall be revised to an outright street dedication.**
- L. The signature line for the County Commissioners Chairman needs to reference "Tim R. Norton".
- M. The Applicant is advised that if platted, the building setbacks may be reduced to 25 feet to conform with the Zoning setback standard for the SF-20, Single-Family Residential District.
- N. The **County Fire Department/GIS** needs to comment on the plat's street names. **"227th Street West Circle" shall be revised to "228th Cir W.**
- O. **Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) The surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)**
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

This plat was never considered by MAPC since Zone Change was denied and the plat could not proceed without the proper zoning. Maybe you could just include a note that "Plat was not considered by MAPC due to denial of associated zone change".

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- 4-6. **SUB2003-47 – One-Step Final Plat –WILSON FARMS FOURTH ADDITION, located west of Webb Road, south of 21st Street North.**
- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. **City Engineering** needs to comment on the need for other guarantees or easements. **The 20-ft easement within Reserve F needs to be labeled. The easement along the west line of the plat needs to be labeled.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. An off-site drainage easement is needed.**
- D. **Traffic Engineering** has requested that Reserve D be expanded to include the parking bays currently denoted as street right-of-way.
- E. **Traffic Engineering** needs to comment on the need for additional right-of-way along the interior street. The plat denotes a 24-ft right-of-way width along portions of the street. **The right-of-way width of Wilson Estates Court adjoining Reserve D shall be increased to 29 feet. Yield signs will need to be posted as necessary.**
- F. The Applicant needs to request a CUP adjustment, in order to have the plat correspond with the CUP.
- G. The platlor's text shall note the dedication of the street to and for the use of the public.
- H. The Applicant shall guarantee the paving of the proposed streets.
- I. The final plat shall state in the platlor's text the purposes of the proposed reserves as well as the ownership and maintenance responsibilities.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. **City Fire Department** requests the ingress entrance be a 20-ft paved road surface. The egress shall be a 24-ft paved road surface. "No Parking" signs shall be posted.
- M. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- N. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- O. A Community Unit Plan Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- P. On the final plat tracing, a note shall be placed on the face of the plat indicating that this Addition is subject to the conditions of the CUP (DP-260).
- Q. As requested by the City Clerk, the City Council certification needs to be revised to include a signature line only, rather than referencing the "City Manager".
- R. The Applicant has platted 15-ft building setbacks which represents an adjustment of the subdivision standard of 20 feet for the narrow local residential street. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- S. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The owner's certification in the platlor's text needs to be revised to reference "Wilson Farms Fourth Addition".
- V. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- W. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who

acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- Y. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- DD. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- EE. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **MICHAELIS** seconded the motion, and it carried (13-0).

4-7. **DED2003-13 – Dedication of Street Right-of-Way, for property located on the southeast corner of Kellogg and 135th Street West.**

OWNER/APPLICANT: Howard Sherwood, Sherwood Construction, 3219 W. May, Wichita, KS 67213

AGENT: N/A

LEGAL DESCRIPTION: A tract located in the NW 1/4 of Sec. 36, T27S, R2E, of the 6th P.M, Sedgwick County, Kansas, described as commencing at the northwest corner of said NW1/4; thence east along the north line of said NW 1/4, a distance of 75.01 feet; thence south parallel to the west line of said NW1/4, a distance of 69.46 feet, to a point on the south right-of-way line of U.S. Highway 54 (District Court Condemnation Case No. A-38302) for a point of beginning; thence continuing south parallel to the west line of said NW1/4 to a point 250 feet south and 75 feet east of the northwest corner of said NW1/4; thence southwesterly to a point 350 feet south and 50 feet east of the northwest corner of said NW1/4; thence south parallel to the west line of said NW1/4 to a point on the north right-of-way of the Atchison, Topeka and Santa Fe Railroad right-of-way; thence northwesterly along said north railroad right-of-way to a point 30 feet east of the west line of said NW1/4; thence north parallel to the west line of said NW 1/4 to a point on the south right-of-way line of U.S. Highway 54, said point being 129.1 feet south and 30 feet east of the northwest corner of said NW 1/4; thence northeasterly along said south right-of-way line to a point 69.3 feet south and 40 feet east of the northwest corner of said NW 1/4; thence easterly along said south right-of-way line 35 feet to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Conditional Use (Case No. CON 2002-35), and is being dedicated for additional street right-of-way along 135th Street West.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **MICHAELIS** seconded the motion, and it carried (13-0).

5-1. **VAC2003-09 – Request to Vacate Access Control.**

OWNER/APPLICANT: John Dugan

LEGAL DESCRIPTION: Vacate the east 80-feet of the 260-feet of complete access control onto K-42 Highway and dedicate complete access control of the 80-foot

opening onto K-42 west of the 260-feet of complete access control, as recorded on Lot 1, Block 1, Dugan Industrial Second Addition, Wichita, Sedgwick County Kansas.

LOCATION: Generally located northeast of the K-42 – Maize Road intersection.

REASON FOR REQUEST: Proposed Lot Split requires relocation of entrance onto K-42.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the north and east are zoned SF-5 Single Family Residential. Property to the south is zoned LI Limited Industrial and SF-5 Single Family Residential. Property to the west is zoned GC General Commercial.

The applicant is proposing to relocate the entrance onto the site from K-42 Highway. The proposed vacation of access control will allow the existing entrance (the existing entrance is actually the proposed entrance = its already been put in) onto K-42 to remain. A Lot Split had reconfigured the site and the existing entrance appears to serve the two new lots out of the original Lot 1, Block 1, Dugan Industrial Second Addition. The Kansas Department of Transportation has approved of the location of the new entrance; Project #2-87K-4326-03, sheet #10. A dedication for access control, by separate instrument, to cover the old entrance and shall be submitted to Planning Staff for recording with the Register of Deeds. The site plan the applicant has submitted shows the openings as they have been reviewed and recommended by City Staff. The Dugan Industrial Second Addition was recorded with the Register of Deeds, July 28, 1983.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities and any other entity with a vested interest, Planning Staff recommends approval to vacate the platted access control as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 1, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted access control described in the petition should be approved subject to the following conditions:
1. Dedicated, by separate instrument, access control to cover the old entrance.
 2. Dedicate by separate instrument cross lot access.
 3. Finish the Lot split.
 4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 5. All improvements shall be according to City Standards

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Dedicate, by separate instrument, access control to cover the old entrance.
2. Dedicate by separate instrument cross lot access.
3. Finish the Lot split.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (10-0).

5-2. VAC2003-15 – Request to Vacate a Platted Utility Easement.

OWNER/APPLICANT: Jill & Ray Jones
Doug & Betty Clarke
Don & Alice Roberts

LEGAL DESCRIPTION: The platted 20-foot utility easement on the south property lines of Lots 1 & 2 and the north property line of Lot 4, Berlin Addition, Wichita, Sedgwick County Kansas, ending at its point of intersection with the platted drainage and utility easement on the east side of Lots 1, 2 & 3, Berlin Addition.

LOCATION: Generally located southwest of the Douglas – Tyler Road

intersection, 9119 & 9115 West Douglas & 118 South Arcadia.

REASON FOR REQUEST: Future use of property

CURRENT ZONING: Subject property and all adjoining properties are zoned "SF-5" Single-family residential.

The applicants are requesting consideration for the vacation of the platted 20-foot utility easement as recorded on Lots 1, 2 & 4, Berlin Addition. The applicants propose future use of their properties including building a swimming pool, on Lot 2. The Berlin Addition was recorded with the Register of Deeds February 4, 1992.

There are no water or sewer in the easement proposed for vacation. Because of the proposed development of the property and the properties adjacent to it there will be no need for the easement to be used for any future water or sewer lines. Storm Water Management needs to comment on the vacation request because of the easement abutting a drainage and utility easement on its east end.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities and any other entity with a vested interest, Planning Staff recommends approval to vacate the platted 20-foot utility easement as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 1, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted easement described in the petition should be approved subject to the following conditions:
1. Storm Water Management comments on the vacation of the easement.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Storm Water Management comments on the vacation of the easement.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (10-0).

5-3. VAC2003-17 – Request to Vacate a Utility-Drainage Easement.

OWNER/APPLICANT: Twenty-First Growth LLC

AGENT: MKEC Engineering Consultants Inc., c/o Greg Allison & Brian Lindebak

LEGAL DESCRIPTION: The platted 20-foot utility & drainage easement running parallel to the common lot line of Lots 20 & 21, Block 2, Hawthorne Addition, Wichita, Sedgwick County Kansas, ending at its point of intersection with the 20-foot utility easement running parallel to Peckham Street.

LOCATION: Generally located northeast of the 21st Street North – 127th Street East intersection, 2418 & 2422 Peckham Street.

REASON FOR REQUEST: Future use of property.

CURRENT ZONING: Subject property and all adjoining properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of the platted 20-foot utility and drainage easement as recorded on Lots 20 & 21, Block 2, Hawthorne Addition. The applicant proposes future use of the land. The Hawthorne Addition was recorded with the Register of Deeds March 18, 1985.

There are no water or sewer in the easement proposed for vacation. Because of the proposed development of the property and the properties adjacent to it there will be no need for the easement to be used for any future water or sewer lines. Public Works has confirmed the relocation of the storm water drain from this site to between Lots 19 & 20, Block 2, Hawthorne Addition.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities and any other entity with a vested interest, Planning Staff recommends approval to vacate the portion of the platted 20-foot utility easement as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 1, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted easement described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be according to City Standards

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (10-0).

5-4. VAC2003-18 – Request Vacate a Portion of a Platted Setback and a Portion of a Platted Easement.

OWNER/APPLICANT: Venture Golf Partners II, LLC

AGENT: Mark Savoy

LEGAL DESCRIPTION: Utility Easement: That part of the platted utility easement, described as the east 14.09-feet of the west 150-feet of the south 10-feet of the north 40-feet of Lot 6, Block 1, Hi-Tech Industrial Park 2nd Addition, Wichita, Sedgwick County Kansas.

Building Setback Line: That part of the platted building setback line, described as the east 35-feet of that part of Lot 6, Block 1, Hi-Tech Industrial Park 2nd Addition, Wichita, Sedgwick County Kansas.

LOCATION: Generally located northeast of the 37th Street North – Rock Road intersection, 3939 Comotara.

REASON FOR REQUEST: To clear existing building encroachments into the platted easement and setback.

CURRENT ZONING: Subject property and properties, south, east and west of the site are zoned "LI" Limited Industrial. Property north of the site is zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of a portion of the platted 40-foot utility easement and 35-foot building setback line as recorded on Lot 6, Block 1, Hi-Tech Industrial Park 2nd Addition. There is a Hotel-Restaurant that was built over portions of the platted easement and setback. The Hi-Tech Industrial Park 2nd Addition was recorded with the Register of Deeds in 1986.

VAC-1484 vacated 387-feet of Comotara Street, north of the existing cul-de-sac, and a platted 50-foot setback that ran parallel to the street. The platted setback was on the North Point Industrial Park Addition, which is the abutting property east of the site. The vacation did not vacate the platted 35-foot setback on the site. Current UZC interior side setbacks for the "LI" zoning district is zero-feet. V-1668 vacated a utility easement located on the northeast side of the site.

There is no water in the easement proposed for vacation. A sewer line and a manhole in the easement proposed for vacation is private and a public manhole has been placed, per City Standards and at the applicant's expense, outside the easement proposed for vacation

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities and other interest parties, Planning Staff recommends vacation of the portions of the platted easement and platted setback as described in the legal description, with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 1, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portions of the patted setback and the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted setback and platted easement described in the petition should be approved subject to the following conditions:
- (1) Finish the relocation of the sewer line and manhole out of the platted easement where the encroachment is, per City Standards.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (3) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Finish the relocation of the sewer line and manhole out of the platted easement where the encroachment is, per City Standards.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **COULTER** seconded the motion, and it carried (10-0).

6. **Case No.: ZON2003-19** – Larry Don Coleman (owner/applicant); Savoy Company c/o Mark Savoy (agent) request Sedgwick County Zone change from "RR" Rural Residential to "SF-20" Single-family Residential on property described as;

The W 1/2 of the SW 1/4 of Sec. 13, Twp. 28-S, R-3-W of the 6th P.M., Sedgwick County Kansas, except the west 800 feet thereof. Generally located North of 47th Street South and 800 feet east of 231st Street West.

BACKGROUND: The applicant requests a zone change from "RR" Rural Residential to "SF-20" Single-Family Residential on a 31.8-acre unplatted tract located north of 47th Street South and east of 231st Street West. The subject property is located within the zoning area of influence for the City of Goddard, and the Goddard Planning Commission is scheduled to consider the zone change request on May 8, 2003.

The applicant submitted a one-step plat (SUB2003-00045 Ricken Acres Addition) for the subject property. The plat (see attached) is scheduled to be heard by the Subdivision Committee on May 15, 2003 and by the MAPC at the same time as the requested zone change. The applicant proposes to develop the subject property with 27 lots, approximately one acre each in area, served by an extension of rural water and an on-site alternative sanitary sewer system on each lot. The applicant has requested "SF-20" Single-Family Residential zoning because the minimum lot size permitted by the subject property's "RR" Rural Residential zoning is two acres.

The character of the surrounding area is agricultural, although non-conforming suburban-scale residential development is located one-half mile south of the subject property in the Lake Waltanna area. All of the property surrounding the subject property is zoned "RR" Rural Residential. With the exception of several 5-15 acre residential lots south and west of the subject property, all adjacent properties are used for agriculture.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Agriculture, 5-15 acre residential lots
SOUTH: "RR" Agriculture
EAST: "RR" Agriculture

WEST: "RR" Agriculture, 5-15 acre residential lots

PUBLIC SERVICES: The subject property has access to 47th Street South, an unpaved section line road. The nearest paved road is 231st Street West, which intersects with 47th Street South approximately 1,000 feet west of 227th Street West Circle, which is proposed by the Ricken Acres Addition as an unpaved local residential street to serve the subject property. The subject property is proposed to be served by an extension of rural water and an on-site alternative sanitary sewer system on each lot.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than agricultural uses, and large lot subdivisions with provisions for future water and sewer service.

The Comprehensive Plan has the stated objective of encouraging agricultural activity in the county. A zone change allowing increased density in the middle of agricultural production areas does not meet this objective. The Comprehensive Plan has the stated objective of encouraging growth and development to areas that are served by existing public facilities and services, or which can be served economically and promote compact and contiguous development. The Comprehensive Plan also promotes a strategy of preserving open space. The requested zone change and resulting increase in residential density does not provide for preserved open space.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural, with all residential uses in the immediate vicinity on 5-15 acre lots. All properties in the surrounding area are zoned "RR" Rural Residential, including suburban-scale residential development located approximately one-half mile south of the subject property that does not conform to current zoning regulations in terms of minimum lot size as it was developed prior to Sedgwick County adopting zoning for the area. The requested zone change is out of character with the surrounding large lot residential and agricultural uses and would result in "spot zoning" since all of the surrounding properties for several miles are zoned "RR" Rural Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential, which accommodates 2-5 acre lot, single-family residential development. The subject property is suitable for development as zoned with 2-5 acre residential lots.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The request does not meet the Zoning Code or Comprehensive Plan intent for an increase in residential density (from "RR" to "SF-20") based on a location where future public services are planned. The request also does not work towards meeting Comprehensive Plan objectives of preserving open space or encouraging agricultural activity, by using higher densities in a "cluster" with the difference in land area set aside and prohibited from future development.
4. Impact of the proposed development on community facilities: The proposed zone change to "SF-20" for 27 one-acre lots instead of 13-14 two-acre lots should not have a significant negative affect on community facilities. However, the cumulative effect of doubling the permitted densities in rural areas that have minimal public services today will be to force the eventual paving of unpaved roads, increase in emergency service costs, and greater likelihood of needing to someday extend public sewer facilities to replace failing on-site systems.

SCOTT KNEBEL, Planning staff presented staff report.

Several Commissioners announce they have been contacted outside of the meeting about this case.

WARREN Is it not true that he can develop this by right in that area on two acre tracts?

KNEBEL That is right.

WARREN So the only reason there is a question here about dropping it to one acre is our normal concern about sewer?

KNEBEL No that is not the statements that I have made.

WARREN Hasn't he been approved for on-site alternative sanitary sewer by the Health Department and by County Code Enforcement?

KNEBEL By County Code Enforcement, that would be accurate.

WARREN So with that he could have one acre tracts then?

KNEBEL Not without changing the zoning. The purpose of the zone change is to double the density, and actually with the zoning request, if there were another type of sewer system that would permit it, you could actually quadruple the density with this zoning district.

BISHOP Since this report was written prior to the Goddard Planning Commission consideration what was the outcome of that meeting?

KNEBEL They recommended that the request be denied.

MARK SAVOY, agent We have been to several meetings about this request and Goddard had put this on one of their meetings before notices went out and actually voted to approve to the zoning change, but when they realized the notices hadn't gone out, they had to put it back on their next agenda and at that meeting there was opposition from the neighbors, and they did vote to deny the request.

Spot zoning attracts my attention. This is rural residential, two acre zoning, we want to go one acre, and the next available zoning is SF-20 which of course would be 20,000 square feet. We submitted a plat with this so that everybody could see that we weren't intending to do something other than the one acre parcels.

The thing that is confusing is that for a long time in Sedgwick County we had a five acre rule. This five acre rule meant that if you had five acres, you could probably get a building permit without platting. You would be exempt from platting. If you wanted to go less than five acres, you had to go through the platting process. This was regardless of what your zoning was. The only other thing that impeded your ability to get a building permit was the ability to provide on-site sewer and water. On-site water is a water well. On-site sewer would be like a lagoon or the septic system available at the time.

Before we requested any zoning or any platting, we had the soil test performed to see how this ground would react with the alternative sewer system and it does pass satisfactory. But that was something that was important to know before we came to get zoning to allow that to make sure that it functioned properly. Rural water is available and close by, and the developer would like to extend the rural water to these lots.

There is also natural gas about 800 or 900 feet away, and the developer would like to extend natural gas to these properties so he can open these up to both gas and electric versus one or the other. Underground electric is being looked at so that it would be more visually pleasing.

At the Subdivision Committee there was a concern about the type of road we were going to put in. We were planning on putting in a standard County road whatever the County requires. We got an engineer's estimate for an asphalt road on the cost and it was 3 times more to do asphalt than it does to do a gravel road. The developer has decided to petition for this road to be an asphalt surface road right from the get-go. Another question was why are we hearing the plat ahead of the zoning, and from my perspective we were trying to show you what we are doing.

WARREN There was some concerns at Subdivision Committee meeting about the contingent dedication.

SAVOY That was one of the reasons I had ask that the plat be put back on to be heard because you guys forgot to make that part of the change of the requirement. I have talked to staff and we had only offered the contingent dedication to the east and they had wanted a full dedication, and they wanted one to the west and we had agreed to give contingent dedication to the east and west and staff has agreed with that as opposed to a full dedication, and their requirements changed just a little bit in that area. We also have a restrictive covenant with this development.

BARBARA CRAIG QUEEN, 56 Stratford Road, Wichita KS 67207 We have been at this site for about 80 years. We are rural residents and think of ourselves as conservators of the land and value our rural home sites. The approved and enforced 2000 Comprehensive Plan states that the primary objectives to enhance and encourage agricultural activities within Sedgwick County. The proposed land change from RR to SF-20 will not do this. The density of the construction will cause the destruction of the terraces. This is going to cause a drainage and a erosion problem. Another concern is sewage seepage impact into the water. Surface water drainage impact concerns.

As for the road, I have contacted the Afton Township who is in charge of this, and he has yet to be contacted, so the idea that this step has been attended to with the Township has not happened. I have some concerns about the Fire services that come out there. We welcome new neighbors on larger lots that are compatible with what we have out there now.

MARK FOSTER, 4430 S. 231st Street W., Goddard, KS 67052 I own a five acre lot out there. I am opposed to this zone change and the plotting of the 31 acres of property with one or two acre lots. If you look at the proposal it does not fit with the rest of the houses that have been developed around this section of land. A single road development is a bad idea. The Subdivision Committee already has concerns about the length of the road at the north end which is behind my property and have stated in condition (K) of the staff report dated 5-15-03 they are recommending that the street stub be located on the west on a 10 acre undeveloped site. My main concern is that if you allow one acre lots to be plotted on the north end of their proposal, there would be seven houses right behind our property line, and I as a homeowner feel the density of housing seems extreme for the location. I would request that this Planning Commission deny this request.

WILLIAM F. HURST, III, 23510 W. 47th St. S., GODDARD KS, 67052 My dad and I own land and this development does not make a lot of sense. If you approve this you are saying I can plat mine to one acre lots as well. I have better services than them because gas and water line are right on the road with me and the road is paved. We lost our home to fire on November 22 and we are living in a mobile home out there, and we have started last week to rebuild our home out there, and we are outside of the largest distance from the Fire Department that insurance companies give you the maximum rate, and this area of development is farther than we are, so when your home burns there I suggest you don't call them, just let it burn to the ground. There is a guarantee of water and I believe they can get on the water but the cost to jump in is pretty expensive and we would like to know if there is a guarantee that they will connect to rural water because the number of wells required for 27 individual lots will be a severe drain on the water table in that area.

My understanding is the covenants are not binding as long as 50% of the property owners want to change them, so once those covenants are in place if the developer owns 50% he can change those covenants to anything he wants. Does the County have enforcement personnel to monitor the sewage, because I have looked over the information on the sewage system, and it is of

interest to me, and it requires maintenance, and who guarantees that the homeowner is doing the proper maintenance, and by the time we find out there is a problem, it will be a major problem. A fire truck can't turn around on that road.

DONALD MENZER, 23001 W. 47th St., Goddard, KS 67052-8206 I own 25 acres down here. We are on water wells down there. I am concerned about the sewage and the trash. These are my concerns.

MARK SAVOY Staff has changed their requirement to not a full dedication, and what we are doing is a contingent dedication, and have agreed to that, but it will not be paved and will not be sending people out to those properties, but it will be there in the future. should either property on either side plat their property and create a need to make a connection there. Drainage and erosion the County has already told us that we have to take care of the berms, terraces, we can't just bust through those. Erosions, we are not going to be opening the earth up twice a year to plow wheat or to plant once these yards are in place. Road maintenance, we have agreed to do an asphalt road and the Township will have very little do on that. The protective covenants that we have says that 75% of the landowners will have to be in agreement to make any changes. This covenant is for the one acre lot and it is only good for this plat. We would probably have propane tanks, and we probably wouldn't bury the electric. It would be overhead. We would still have the rural water, and we would still be able to use the alternative sewer system.

BISHOP I am confused between the platting process and the consideration of the Zone change. At Subdivision Committee hearing I heard the gentlemen say that there would be no specials with this, no buried lines and no gas services.

SAVOY You also heard us say that we were going to have a gravel road at that time. If we have to go to the two acre plats, which we are allowed to do in the present zoning, we are wanting the SF-20 zoning so we can create more lots to be able to afford to do that.

BISHOP Those are changes that have been made since last week.

SAVOY No, those are the things we wanted to do the one acre plat. If the SF-20 zoning is not approved, we are not going to be able to do some of those things. We will come back with a plat for two acres and change some of those things to make it more affordable. There will be less distribution for those expenses. Even though we are paying for it ahead of time, believe me it comes in the land cost.

BARFIELD What was the final vote of the Goddard Planning Commission?

KNEBEL The vote was 3-2 to deny the request.

WARREN I am respectful of the concerns of the people here today, and the problem is are we going to have 1 acre or 2 acre lots? Staffs comments here are almost contradictory because we talk about the preservation of ag land or even open spaces and yet we all know that the only way that can be accomplished is whether we have only one person living on five acres or five persons living on five acres. This is the way you preserve land is to increase density, so this has all of the approvals that we could find and we had County Health, County Water, at Subdivision meeting and they all agreed that this 1 acre tract plat was acceptable and would be approved.

BISHOP I disagree. If the applicant was talking about platting half of the 31 acres for 1 acre development and dedicating the remainder of it for perpetual open space for agriculture space, that would be cluster development and I might consider that. This is not in conformance with the Comprehensive Plan, and it is not in conformance with what the County people have told us they are looking for.

MOTION: To deny.

BISHOP moved, **GAROFALO** seconded the motion.

WARREN I am going to oppose the motion. He is going to develop out there, and he will have 2 acres and will not pave that road. The trade offs for taking the 1 acre are more than offset by the improvements that he has agreed to do.

BISHOP I don't want to support bad policy based on poor policy.

MOTION CARRIES: 8-5. (MARNELL, WARREN, HENTZEN, JOHNSON, WELLS, opposed to denial.)

7a. **Case No.: CUP2003-23 DP265 (Associated with ZON2003-23)** – Daniel M. Carney and Park Meadows, Inc., (owners), Jay Russell (contract purchaser), Baughman Company, P.A., c/o Terry Smythe (agent) request Creation of DP265 Crystal Creek Commercial Plaza Community Unit Plan on property described as;

and

7b. **Case No.: ZON2003-23 (Associated with CUP2003-23 DP265)** - Daniel M. Carney and Park Meadows, Inc., (owners), Jay Russell (contract purchaser), Baughman Company, P.A., c/o Terry Smythe (agent) request Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

That part of the Southeast Quarter of Section 28, Township 27 South, Range 2 East of the 6 th P.M., Sedgwick County, Kansas described as follows: Commencing at the Southeast corner of said Southeast Quarter; thence westerly along the south line of said Southeast Quarter, 662.75 feet, more or less, to the Southeast corner of the Southwest Quarter of the Southeast Quarter of said Southeast Quarter and for a point of beginning; thence continuing westerly along the south line of said Southeast Quarter, 1120.39 feet, more or less, to a point 868.19 feet east of the Southwest corner of said Southeast Quarter; thence northerly perpendicular to the south line of said Southeast Quarter, 210.00 feet; thence

northeasterly with a deflection angle to the right of 75 degrees 57'50", 206.16 feet; thence easterly with a deflection angle to the right of 14 degrees 02'10" and parallel with the south line of said Southeast Quarter, 400.00 feet; thence northeasterly with a deflection angle to the left of 30 degrees 01'46", 199.82 feet; thence easterly with a deflection angle to the right of 30 degrees 01'46" and parallel with the south line of said Southeast Quarter, 349.12 feet, more or less, to a point on the east line of the Southwest Quarter of the Southeast Quarter of said Southeast Quarter; thence southerly along the east line of the Southwest Quarter of the Southeast Quarter of said Southeast Quarter, 360.01 feet, more or less, to the point of beginning, subject to road rights-of-way of record. Generally located North of Harry and west of Greenwich.

BACKGROUND: The applicant is requesting to create DP-265 Crystal Creek Community Unit Plan, which would be a 6.55-acre development with six parcels for commercial use. The property is located between 1/8 mile and 1/3 mile west of Greenwich. It is separated from the intersection of Harry and Greenwich by a narrow strip zoned for residential use and accessing the property north and a traditional 600x600 commercial tract on the northwest corner of the intersection held under separate ownership.

Maximum building coverage is 30 percent; floor area ratio is 35 percent. Maximum height is 45 feet. The C.U.P. includes provisions for landscaping per Landscape Ordinance of the City of Wichita, lighting limited to 24 feet in height, architectural compatibility among the tracts and use of materials similar to nearby residential areas. Requested signage exceeds standard City of Wichita signage requirements. No screening wall is proposed. The north and west property lines border the drainage easement for Spring Branch to Four-Mile Creek, which forms a buffer about 180 feet in width between the single-family lots to the north.

Requested zoning is "LC" Limited Commercial. Uses proposed to be excluded are adult entertainment, bars and taverns, group homes, group residences and correctional placement residences.

The easterly four lots are situated north of DP-243 Smithmoor Commercial C.U.P., and the westerly two lots are directly north of Smithmoor First Addition, a single-family neighborhood zoned "SF-5". Zoning on tracts in Smithmoor Commercial south of the proposed C.U.P. ranges from "LC" on the east, to "NR" Neighborhood Retail, and "GO" General Office for the westernmost tract. This tract is developed with a real estate office with residential design of the structure. The property to the north and west is zoned "SF-5" and proposed for development as Crystal Creek Addition, a single-family subdivision.

CASE HISTORY: The property is unplatted. The Subdivision Committee approved the preliminary plat for Crystal Creek Addition on April 17, 2003.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"; "SF-20"	Vacant, suburban
SOUTH: "SF-5"; "GO"; "NR"; "LC"	Single-family residential, office, retail under construction
EAST: "SF-20"; "LC"	Suburban residence
WEST: "SF-5"; "SF-20"	Creek, substation, residences, vacant

PUBLIC SERVICES:

2002 traffic counts for Harry west of Greenwich were 7,736 cars per day. The 2030 traffic projection (ADT) for Harry west of Greenwich is 17,000+. Harry is improved as a four-lane arterial street.

The C.U.P. proposes three points of access. The C.U.P. shows a shared access between Parcels 1 and 2, and a shared access between Parcels 3 and 4 (which is situated across from a shared access to the office and retail building to the south). The third access is shown on the C.U.P. drawing as shared between Parcels 5 and 6. The Subdivision Committee approved this access point as being wholly located on Parcel 6 with cross lot access to Parcel 5 in order to be positioned across from the major opening to Smithmoor Commercial.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES:

The "Wichita Land Use Guide, as amended 1/02" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Low density residential" development. Property to the south of Harry is shown in three categories: low density residential across from Parcels 1 and 2, office across from Parcels 3 and 4, and commercial across from Parcels 5 and 6.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the general recommendations of the Comprehensive Plan. The proposed C.U.P. provisions generally follow these objectives and guidelines. Recommendations for conformance with regard to signage, screening, and intensity of use are included in the next section in enhance conformance with these policies.

Residential Objective II.A.1 seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The proposed recommendations for use of lower intensity zoning districts can help achieve this objective.

RECOMMENDATION: Normally, staff recommends limiting the expansion of commercial zoning from the intersections of major arterial streets to prevent strip commercial zoning. In the mile segment between Webb and Greenwich, commercial zoning on the north side steps down from "LC" at the Webb and Harry intersection to "GO" to the half-mile point, with a small intrusion of multi-family zoning. There is a similar pattern created for the southeast of this mile-segment. DP-243 Smithmoor steps down from "LC" near Greenwich, to "NR", then to "GO". This is an ideal pattern to replicate for the property north of Harry, and would be a good buffering approach for the residential areas of Smithmoor and Crystal Creek. It is recommended that Parcels 5 and 6 be zoned "LC" as requested. Parcels 1 and 2 should be limited to "GO" General Office, or could be "NO" Neighborhood Office. Either "GO" or "NR" would be appropriate for Parcels 3 and 4.

While a wall along the north side of development may not be necessary, it is important to ensure adequate screening of outdoor work and storage areas, trash dumpsters, and loading docks. Otherwise these activities typical of the rears of commercial uses might be visible from backyards of the residential lots to the north, which is contrary to standard C.U.P. screening requirements of the Unified Zoning Code.

A traffic impact study would be warranted to determine the scope of required transportation improvements since the site could generate more than 500 trips during the peak afternoon hour. The applicant has indicated general agreement with requested transportation improvements in lieu of preparing the traffic impact study to document the needed improvements. These improvements include a right-turn decel lane, and left center turn lane for eastbound traffic.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2003-00023) to "LC" Limited Commercial for Parcels 5 and 6, "NR" for Parcels 3 and 4, and "GO" for Parcels 1 and 2 subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-265), subject to the following conditions:
 1. Transportation requirements:
 - a. The CUP must ensure that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping.
 - b. Guarantee for right-turn deceleration lanes with 100 feet of storage and 150 feet of taper to the entrances.
 - c. Guarantee for center left-turn lane along the property.
 - d. Provision of a traffic impact study is not required if the applicant accepts the above recommendations.
 2. General Provision #7 shall be amended as follows:
 - a. Add the word "monument" to GP#7A to clarify that one monument sign is permitted for each parcel. Monument signage shall be subject to the following area restrictions:
 - Parcel 1: 100 sq. ft. of signage (total)
 - Parcel 2: 100 sq. ft. of signage
 - Parcel 3: 100 sq. ft. of signage
 - Parcel 4: 100 sq. ft. of signage
 - Parcel 5: 160 sq. ft. of signage
 - Parcel 6: 160 sq. ft. of signage
 - b. Add to B: "and the total square footage of monument signs shall not exceed 80 % of arterial street frontage."
 - c. Insert the word "Interior" to GP#7E to clarify the provision applies to interior window display signs
 - d. Limit the maximum height of monument signs to 20 feet.
 3. Clarify General Provision #10 as follows: " and shall comply with the Unified Zoning Code standards in Art. IV, Sec. IV-B.4." Add to GP#10A as follows: "Limited height of light poles to 24 feet, including pole base."
 4. Add to General Provision #14: " , with these areas being screened by a screening wall consisting of materials similar to the materials of the main structure and being connected to the building whenever possible." The intent of this requirement is to provide screening that meets the intent of the Unified Zoning Code Art. III, Sec. III-C.2.b(2)(d) without provision of a solid screening wall in those areas where over 100 feet of open space separates the residential zoning from the commercial zoning.
 5. Add to General Provision #15: All parcels shall share a similar landscape palette.
 6. Modify General Provision #17 by replacing the first sentence to state "The uses allowed shall be those permitted by-right in the zoning district."
 7. Add to General Provision #23: The pedestrian walk system shall link proposed buildings with the entrances and sidewalks along Harry Street and shall be assured by required submission and approval of circulation plans by the Planning Director prior to issuance of any building permits."
 8. The height of buildings in Parcels 3-6 shall be limited to 35 feet.
 9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 10. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a

termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

11. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
12. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-265) includes special conditions for development on this property.
13. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The easterly four lots are situated north of DP-243 Smithmoor Commercial C.U.P., and the westerly two lots are directly north of Smithmoor First Addition, a single-family neighborhood zoned "SF-5". Zoning on tracts in Smithmoor south of the proposed C.U.P. ranges from "LC" Limited Commercial on the east, to "NR" Neighborhood Retail, and "GO" General Office for the westernmost tract. This tract is developed with a real estate office with residential design of the structure. The property to the north and west is zoned "SF-5" and proposed for development as Crystal Creek Addition, a single-family subdivision. The property farther to the west toward Webb Road is zoned "GO" for office use.
2. The suitability of the subject property for the uses to which it has been restricted: The property is less suitable for single-family use because of the narrow depth of usable land between Harry and Spring Branch to Four-Mile Creek and the presence of office and commercial zoning to the south for Parcels 3-6.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development of Parcels 1 and 2 will have a potential effect on the residences to the south. Decreasing the intensity of uses to "GO" should minimize the effects of the development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. While commercial use is not in conformance with the land use guide, the C.U.P. provisions, as recommended limit the intensity of uses to serve as a transition from more intense to lesser intensity in proximity of the residential development. The C.U.P. general provisions and staff recommendations are intended to achieve site design features to conform to the locational guidelines and **Strategy III.B.2, Residential Objective II.A.1**.
5. Impact of the proposed development on community facilities: The traffic increases from the development should be mitigated by the addition of the left turn lanes and decel lanes. Other community facilities are being extended to serve new development in the vicinity, as well as being available for this site.

DONNA GOLTRY Planning staff presented staff report, and added that staff was in agreement with to modify the recommendation to zone all parcels "LC", but to restrict the uses on Parcels 1-3 to be more in keeping with the intent of the "NR" and "GO" districts. The limitations on Parcels 1-3 would be to prohibit drive-in and drive-through restaurants, auto-related uses and uses with overhead doors. No individual commercial use would exceed 8,000 square feet in size. Banks with drive-through window would be allowed. Also staff was in agreement with allowing all parcels to have 160 square feet of monument signage, subject to the overall limitation that monument signage not exceed 80 percent of lineal frontage on Harry.

WARREN I have a question about Condition 2 letter (b).

TERRY SMYTHE We agree with the revised staff comments.

MOTION: To approve item 7a and 7b.

MICHAELIS moved, **ANDERSON** seconded the motion, and it carried (12-0).

8. Case No.: ZON2003-24 - Vosburgh Family Limited Partnership request Zone change from "TF-3" Two-family Residential to "LC" Limited Commercial on property described as;

Reserve B, Grandview Terrace Addition to Wichita, Sedgwick County, Kansas.

Lots 21, 23, 25, 27, 29 and 31, Central Avenue, Grandview Terrace Addition to Wichita, Sedgwick County, Kansas.

Lots 33 and 35, except that part deeded to the City of Wichita, Kansas, Central Avenue, Grandview Terrace Addition to Wichita, Sedgwick County, Kansas.

Beginning at the Southeast Corner of Lot 21, Central Avenue, Grandview Terrace Addition to Wichita, Sedgwick County, Kansas; thence East 50 feet; thence North 100 feet; thence West 50 feet; thence South 100 feet to the point of beginning, in the Southwest Quarter of Section 14, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas. Generally located On the northeast corner of Central and Vassar.

BACKGROUND: The applicant requests a zone change from "TF-3" Two-Family Residential to "LC" Limited Commercial on Lots 21, 23, 25, 27, 29, 31, 33 a portion of 35, Reserve B, and what used to be Reserve A (see legal), Grandview Terrace Addition. The subject properties are located on the northwest corner of the Vassar Avenue – Central Avenue intersection. Starting at the intersection and going east the properties are developed with a brick, two-story duplex and four (4), one-story wood frame single-family residences. The structures appear to be vacant and in poor condition. The applicant proposes unspecified limited commercial uses and redevelopment of the property

One block west and southwest of the site are several ongoing current developments. These include, northwest of the Central – Hillside intersection, the expansion of the Wesley Hospital complex, which is the dominant development of the area. This development is occurring primarily along Central Avenue and east of Vassar. Southwest of the Central – Hillside intersection, development is occurring in the form of PUD01-02. Proposed uses include a multi-story office building, freestanding retail and a neighborhood shopping center restaurants; hotel or motel, hospital, medical service, personal care and improvement service, bank or financial institution, ATM, and day care. Immediately southwest and west of the site existing non-residential development includes a bank with a drive through, a dentist office, office buildings and a Ronald McDonald House. Development north, south and east are overwhelmingly single family residential with some duplexes along Central mixed with the single family residential. The Sleepy Hollow residential neighborhood abuts the site on the north and the College Hill residential neighborhood lies south of the site across Central. Edgemont and Sleepy Hollow Drive are cul-de-sacs, put in to prevent hospital traffic from splitting off of Vassar, (a four-lane street from Central to Murdock, designed to bring hospital traffic into the Wesley complex) and into the Sleepy Hollow residential neighborhood.

Any development on the subject property will be required to meet screening, compatibility standards and landscaping. For any proposed development, screening, buffer landscaping and compatibility standards will be required for the residential properties to the north, east and south. Existing vegetation on the subject property that is left in place after the development of the site can be used to satisfy the buffer landscaping requirement. Access control would be reviewed, by the Traffic Engineer, according to the redevelopment of the site, including access control and cross lot access. The existing individual drives for the existing residences on the site would be closed, by the access control, with continuous curb according to City Standards.

CASE HISTORY: The subject properties are platted as a part of the Grandview Terrace Addition, which was recorded January 8, 1910.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3"	Single-family
SOUTH:	"SF-5"	Single-family
	"GO"	Dentist Office
	"LC"	Bank
EAST:	"TF-3"	Single-family & Duplex
WEST:	"LC"	Office
	"GO"	Office, Hospitable
	"B"	Ronald McDonald House

PUBLIC SERVICES: The site has access to Central and the eastern portion abuts Vassar. Central tapers from a five-lane arterial to a four-lanes along the site. Current traffic volumes, at the Hillside intersection are approximately 22,000 and 20,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Central and Hillside will increase to approximately 24,000 and 26,000 vehicles per day. There have been recent improvements to this intersection. The intersection of Vassar and Central was improved last year with turn lanes and a stop light. Vassar is a four-lane road from Central to Murdock, designed to bring traffic into the Wesley complex. Water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* classified the subject tract as either "low density residential" or "office". The Office Locational Guidelines of the Comprehensive Plan recommend that office sites should be located adjacent to arterials. Local and service orientated offices should be incorporated within or adjacent to neighborhood and community scale, commercial development. Low-density office use can serve as a transitional land use between residential uses and higher intensity uses. The subject property can meet the Office Locational Guidelines through the Traffic Engineer's recommended access control, including cross lot access, and the application of screening, buffering, landscaping and compatibility requirements to development on the property.

RECOMMENDATION: Based upon information available prior to the public hearings Staff felt the requested zoning of "LC" was inappropriate for this site. Staff preferred "NO" zoning for the site. The applicant offered "GO" zoning with a "PO" Protective Overlay. Staff feels the "GO" zoning with the "PO" is a compromise that will work and the applicant agrees to "GO" zoning with the "PO". Staff recommends APPROVAL of "GO" zoning subject to PO-128:

1. Dedication by separate instrument of access control, per the Traffic Engineer's recommendation. Any and all existing individual drives for the existing residences on the site closed by the access control, would have a continuation of the curb done to City Standards, at the owner's expense.

2. Dedication by separate instrument of a cross-lot access easement to serve all the properties.
3. Allow all those uses permitted by right in the "GO" zoning district with the following uses prohibited: manufactured home, group residence (general and limited), correctional placement residence (limited and general), cemetery, group home (limited, general, commercial), hospital, schools (elementary, middle, and high), broadcast and recording studios, funeral home, hotel-motel, marine facility (recreational), animal care (limited and general), heliport, personal improvement services, printing and coping limited, vocational schools, warehouse self-service, wireless communication facilities, funeral home, recycling collection station (private) and all industrial, manufacturing and extractive uses.
4. Meet all landscaping, screening, lighting, compatibility and buffering requirements, per the UZC and the Landscaping Ordinance, including one shade tree or the equivalent every 20 feet along the edge(s) of the development. Existing vegetation on the subject property that is left in place after the development of the site can be used to satisfy the buffer landscaping requirement.
5. Design and materials used in the development of the site will be compatible with the immediate residential and the current development of PUD2001-02.
6. Height restriction of 35 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The 2 blocks east of the Hillside and Central intersection is characterized, in descending order from the intersection, by the hospital ("GO"), retail - office ("PUD" and "LC"), office and medical uses. The office use and small scale medical, "GO" zoning, occupy the eastern edge and end at Vassar on the north side of Central and Clifton on the south side of Central. Clifton Avenue, a short block east of Vassar, does not continue beyond Central. South, east and north of the site development is single-family residential and includes the Sleepy Hollow and College Hill neighborhoods.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "TF-3" Two-Family Residential, and is currently developed with a two-story duplex and four (4) single-family residences, all permitted use in the "TF-3" district. Although the subject property appears to be suitably restricted, the structures on the site appear to be vacant and in poor condition. The MAPC has, in the past, supported development of underused or declining residential properties for low intensity office use, with the application of screening, landscaping and the use of residential/compatible design and materials used to blend in with the abutting and adjacent residential neighborhoods
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "office" or "low density residential" development. The Office Locational Guidelines of the Comprehensive Plan recommend that office sites should be located adjacent to arterials. Local and service orientated offices should be incorporated within or adjacent to neighborhood and community scale, commercial development. Low-density office use can serve as a transitional land use between residential uses and higher intensity uses.
5. Impact of the proposed development on community facilities: Community facilities should be minimally impacted if the recommendation of the Traffic Engineer are followed including dedication of access control and cross-lot access are required.

MCKAY conflict of interest and will abstain.

LONGNECKER presents staff report.

MICHAELIS Condition #3, it says the following uses prohibited: manufactured home, what is your definition of a manufactured home?

LONGNECKER Defined by what HUD 1976 defined as a manufactured home and what would be a structure that had to be at least 22 foot wide.

MICHAELIS I would like to see you do is make reference that you are talking about a manufactured home according to HUD. Because there are manufactured homes that are developed according the UBC that are a big difference and to put them into the same category is wrong.

LONGNECKER We are talking manufactured homes.

MICHAELIS You can have manufactured homes that are built according to UBC which is the same thing that ever house in the city is built buy and then you have manufactured homes that are built according to HUD that is your typical mobile homes and that type of stuff so if you are referring to those I think you need to make that separation.

LONGNECKER Within the Unified Zoning Code we also have residentially designed manufactured home as the Unified Building Code taking consideration the design standards that the Unified Zoning Code has.

MILLER We are referring to the definition of manufactured home as it is in the Unified Zoning Code that is what the staff report refers to.

MICHAELIS We need to revise the terms.

MILLER According to the Zoning Code a manufactured home is something that is built after 1976 that is less than 22 feet wide and doesn't meet the residential design manufactured home it is the new term for a mobile home only built under HUD standards.

MICHAELIS When you see this term there are manufactured homes that don't fall into that category.

MILLER I guess we think of those as modular and I guess maybe that is not the right way to look at it.

LONGNECKER So I need to make reference as to what is the Unified Zoning Code as a manufactured home which was my intent.

BISHOP In the photo you had early, is that median would make access right in-right, right-out only?

LONGNECKER The standard for right in right out is 200 foot from an intersection and because of the media strip yalong most of the site's frontage, which would prevent full movement. However looking at Clifton where it T's, which pretty well splits on this property's east side there might be full movement there.

GAROFALO Does the raised median goes east of Clifton?

LONGNECKER No. We are going to have to replat the property and the access control will be looked at that time. Scott Logan, the Traffic Engineer, is not sure what the impact of Clifton will be as far as getting full access out because we are not sure how that lies in relationship to the end of this property.

BOB KAPLAN Staff and I want to go to GO. We agree with the overlay and the platting but we want GO. Mr. Vosburgh is an experienced developer and that has withstood the test of time. He owns the 5 properties that makes up the site. I think the demolition or the removal of the existing houses is a good plan: we want to scrape them and not move them. I think we have a reasonable request here, these are \$40,000 properties with \$40,000 worth of rehab and that is impractical. I filed for "LC", but after meeting with staff they persuaded me that Mr. Vosburgh market was no more than "GO" so I am amending the request to "GO", with the overlay and replat.

CAROL SKAGGS, 3430 Sleepy Hollow, Wichita, KS 67208 I am here on behalf of the Neighborhood Association. We have been here before and we are not opposing this zoning change. We are pleased the property will be upgraded as it has been grossly neglected. We have concerns for the abutting property owners and to maintain the character of the neighborhood and we will be at the DAB meetings.

MOTION: To approve zone change, as recommended by Staff.

MARNELL moved, **COULTER** seconded the motion, and it carried (11-0-1) **MCKAY** abstains.

9. **Case No.: CUP2003-24 DP151 Amendment #3** – Reichenberger Family LP (owner), J.P. Weigand c/o Doug Malone, Landmark Commercial c/o Brad Saville, and AM Consulting, Inc. c/o Kim Edgington (agents) request Amendment to The Dugan Centre Community Unit Plan on property described as;

Lots 2, 3, & 4, Dugan Centre 2nd Addition, Wichita, Sedgwick County, Kansas. General Location South of Taft and west of Dugan

BACKGROUND: The applicant is requesting to amend Parcel 3A of DP-151 The Dugan Centre Community Unit Plan. The applicant proposes to amend Parcel 3A to increase maximum building coverage from 21 percent to 30 percent, the gross floor area from 21 percent to 32 percent, the maximum number of buildings from three to six buildings. The applicant is also proposing to reduce the building setback on Taft from 100 feet to 35 feet. Uses allowed would be all permitted uses in "GC" General Commercial except the following: correctional placement residences, day reporting center, group home, night club, sexually oriented businesses, tattooing and body piercing, tavern or drinking establishment and vehicle storage yard.

The property is zoned "GC" General Commercial. Uses currently permitted are recreation center, financial institution, motel/hotel, offices, office warehousing, retail/wholesale business, miniature golf facility, and automotive agencies. This is an unusual list. It omits all residential and public/civic uses.

The requested change would permit all uses classified by the Unified Zoning Code as "residential". It would permit all uses classified as "public and civic" except correctional placement residences and group homes. Although the applicant's request included day reporting center as a prohibited use, but this always prohibited in the "GC" zoning district.

Additional "commercial" uses that would be allowed are: animal care, limited and general; broadcast/recording studio; car wash; convenience store; funeral home; kennel, hobby or boarding, breeding and training; marine facility; microbrewery; monument sales; nurseries and garden center; pawn shop; personal care service; personal improvement service; post office substation; printing and copying; recreational vehicle campground; restaurant; riding academy or stable; secondhand store; service station; vehicle repair, limited and general (body shop allowed); vocational school; and warehouse, self-service storage.

Additional "industrial, manufacturing and extractive" uses would be: manufacturing, limited and general; research services; outdoor storage; welding or machine shop.

No changes are proposed for parking and sign requirements.

The subject tract is positioned between two distinctively different areas, and serves as the buffer zone. The area to the north is zoned "SF-5" Single-family residential as the Westerlea Village Addition. The area to the south is zoned "GC" General Commercial and developed with large-scale big box commercial uses.

CASE HISTORY: The property was platted as The Dugan Centre Second Addition, recorded on July 13, 1993. DP-151 The Dugan Centre C.U.P. was approved originally in 1986. Parcel 3A was created from Parcel 3 as an adjustment dated November 19, 1992.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residential
SOUTH: "GC"	Commercial
EAST: "GC"	Vacant, commercial
WEST: "GC"	Commercial

PUBLIC SERVICES: Parcel 3A has access onto Taft, a four-lane collector street. No streets enter Taft from the Westerlea Addition. The connections between the residential streets and Taft have been blocked off to prevent commercial traffic from the commercial development between Kellogg and Taft cutting through the residential neighborhood.

Traffic counts are not available for Taft and Dugan. The closest counts are at Taft and Ridge Road, which were 9,415 cars per day in 2002. No projected traffic volumes were available.

Currently, the plat allows two points of access onto Taft. These points are generally in the eastern and middle portions of the Parcel.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES:

The "Wichita Land Use Guide, as amended 1/02" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Commercial" development. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The existing C.U.P. is in conformance with the general recommendations of the Comprehensive Plan. The proposed changes in use would weaken conformance with these strategies and locational guidelines by introducing potential land uses that would add more noise, lighting and other activities near the residential area.

RECOMMENDATION: Past amendments to DP-151 The Dugan Centre were designed to reduce impacts on the Westerlea Addition. The 100-foot setback was designed to keep any commercial activities from being too close. This was coupled with a required landscape buffer and screening wall requirement.

However, the effect was not achieved for Parcel 3, which was divided into Parcel 3A and Parcel 3B in 1992. The effect was to allow the big box users to be located a sufficient distance from the residential area, but to avoid adding the intended landscaping and screening that would have protected the neighborhood from the current views. Additionally, wall signs on the north side of the commercial businesses were highly visible to Westerlea residents. It appears this spurred an additional condition during Amendment #2 to Parcel 1 to prohibit wall signs along Taft on Parcel 1.

This proposed amendment would eliminate the 100-foot C.U.P. setback requirement. This setback may be the largest reason that Parcel 3A has remained undeveloped. On balance, encouraging the development of Parcel 3A may benefit the nearby residential neighborhood if commercial activities that are less intense and more compatible to residential areas are developed. These uses would serve as an intervening buffer to shield some of the rear service activities clearly visible today on Parcel 3B. Also, development of Parcel 3A would trigger compliance with the 20-foot landscape buffer strip along Taft.

Staff is recommending that the requested changes to building coverage, gross floor area, number of buildings and setback reduction be approved. Staff is also recommending that the additional uses permitted by this amendment be scaled back to those uses appropriate in close proximity to residential development. For example, it is felt that car wash; mini-storage warehouse; vehicle repair, general; outdoor storage and uses of similar intensity are not compatible to the residential character nearby.

Finally, staff is recommending that the two access points be positioned to minimize the impact of headlights and traffic at the intersections on the Westerlea Addition by aligning the access points with Howe Road and Fairhaven Road.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the following conditions:

1. The platted 100-foot setback shall be vacated as a condition of approval.
2. The access points shall be aligned with Howe Road and Fairhaven Road.

3. Proposed uses: Those permitted by-right in the "GC" General Commercial district, except the following: correctional placement residences, limited and general; group home, limited, general and commercial; animal care, general; broadcast/recording studio; car wash; convenience store; funeral home; kennel, hobby or boarding, breeding and training; marine facility; microbrewery; monument sales; night club in the city; nurseries and garden center; pawn shop, recreational vehicle campground; riding academy or stable; secondhand store; service station; sexually oriented businesses; tattooing and body piercing facility; tavern or drinking establishment; vehicle repair, limited and general (body shop allowed); vehicle storage yard; vocational school; warehouse, self-service storage; manufacturing, limited and general; research services; outdoor storage; welding or machine shop. Restaurants shall be permitted in accordance to the Unified Zoning Code Art. III, Sec. III-D.6. t.
4. If the service area or the rear of buildings face directly or are visible from Taft, a screening wall of six to eight feet in height of masonry, concrete or similar material, not including wood or woven wire, shall be provided to sufficiently hide the service area or rear of the buildings from view in addition to the 20-foot landscape buffer.
5. All buildings on the parcel shall share uniform architectural character, color, texture, and the same predominant exterior building material as determined by the Planning Director. Building walls and roof must have predominately earth-tone colors, with vivid colors limited to incidental accent, and metal shall not be used as the predominate exterior building material on the north, east or west elevation.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The subject tract is positioned between two distinctively different areas, and serves as the buffer zone. The area to the north is zoned "SF-5" Single-family residential as the Westerlea Village Addition. The area to the south is zoned "GC" General Commercial and developed with large-scale big box commercial uses.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for continued use as approved by DP-151 with the exception that the 100-foot building setback results in a narrow strip of property that is difficult to use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As requested, many uses that are considered undesirable in close proximity to residential areas would be added as possible uses. The recommended restrictions eliminate the more intensive commercial and industrial uses of the "GC" district to make the proposed development more compatible with the nearby neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Commercial" development. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The existing C.U.P. is in conformance with the general recommendations of the Comprehensive Plan. The proposed changes in use would weaken conformance with these strategies and locational guidelines by introducing potential land uses that would add more noise, lighting and other activities near the residential area.
5. Impact of the proposed development on community facilities: The requested amendment could result in a small increase in traffic due to an increase of approximately 20,000 square feet of floor area permitted on Parcel 3A. No additional access points are requested. The additional impact on community facilities should be minimal.

DONNA GOLTRY, Planning staff, presented staff report.

BISHOP Ms. Jolly has a letter here. What about the public hearing dates that she has listed?

GOLTRY The June 2nd date is the D.A.B. date and the June 5th date will be the hearing for a vacation case on the same property.

HENTZEN Are the front of the buildings going to face Taft?

GOLTRY Yes, but some of the preliminary layouts show some of the buildings facing inside towards each other.

HENTZEN Do you think they are talking about retail uses?

GOLTRY I thought that was the case. When the case came in originally, I thought we were looking at office warehousing, but based on the actual application, there are many other things requested. I don't think we can assume that it will be retail.

MILLER The reason that we were willing to agree to reducing the setback was that we thought it was going to be uses that were compatible with being closer to the street and to the residences. If the intensity of the uses is being increased, I would have second thoughts about recommending approval of reducing the setback. This would be my recommendation if the intensity of uses is more significant than what we suggested.

HENTZEN Where is the parking going to be? In front of the buildings?

GOLTRY Because of the narrowness of this lot, some of the building arrangements under consideration would avoid having as much parking in front of the building as we typically see in new development.

HENTZEN If you had retail buildings there (indicating Parcel 3C), that means that the people in the residences across the street would not have to look at the back door of all the other commercial buildings that are already there.

GOLTRY I think that is why we started out looking favorably toward the possibility of reducing the setback. It is because we think the development of this parcel is of benefit to the neighborhood, to the extent that it would screen the backs of the "big boxes" located to the south. Our concern to make sure that it does so in a sensitive manner.

BISHOP There are some businesses that have successfully used both a front and back door. The front door is for the pedestrian walk-in traffic, and a back door for a parking lot. This would be good; if the design is such, it would provide neighborhood services and a buffering process to the neighborhood as well.

KIM EDGINGTON, AM CONSULTING I did send information out to MAPC, and I do not believe that it was exparte communication because we provided the same information to the Planning Department.

We want to change the conditions for the building materials since we will be incurring the cost of screening, which we feel that the big boxes should have carried those expenses. This CUP was developed in 1986. There are some issues about the location of the drives, but the building layouts have not been done yet and we will work those things out. The majority of those (referring to uses) are enclosed uses and screened from the neighbors. We will be doing a lot of landscaping.

We also want some changes in the proposed uses and those are as follows: carwash; funeral home; monument sales; nurseries and garden center; secondhand store; vehicle repair, limited; manufacturing, limited and general; research services; welding or machine shop; and restaurants.

We also to change the architectural character requirement to remove the requirement that it be determined by the Planning Director, and also to remove the language that metal shall not be used as the predominate exterior building material on the north, east or west elevation.

WARREN You want a modification of a setback and then you develop according to the old C.U.P.?

EDGINGTON There are some uses that would not be allowed under the current C.U.P. because it is so limiting, and the language only allows these eight uses.

WARREN This communication from you today--the uses you want in condition 3 are crossed out and you want those uses included in the C.U.P. now?

EDGINGTON That is correct.

BISHOP For the development in that area--do you have any plan for the orientation of the buildings?

EDGINGTON The store fronts will be oriented towards Taft.

BISHOP There would be parking all the way around it?

EDGINGTON We would like most of the parking on the sides of the building.

MCKAY On the architectural control, the buildings that are facing Kellogg have a definite design.

EDGINGTON Yes, it is pretty plain. We would like them to look better than what is there now. The photo I have submitted--the front is a little more broken up--it has some features with recesses, and some canopy features that are not present on the buildings to the south right now.

GAROFALO This picture you gave us--it is just to give us an idea what it would look like?

EDGINGTON It would be oriented in the opposite direction of that building in the photo, with possible retail store fronts and with some office warehouse type uses where that would be allowed in the current C.U.P.

HENTZEN Do you know the square footage of the building?

EDGINGTON We have asked for the maximum building coverage to be increased to 30%. It is on the C.U.P. drawing--maximum building coverage would be 53,700 square feet.

HENTZEN That piece of land has been sitting there for quite a long time, and the taxes being paid on it are not significant compared to 53,000 more sq. ft. of building. It seems like when some has been there so long and someone wants to build something on it then we sit up here and pick them apart.

MOTION: Subject to modifying the staff comments to accept the applicant's modification as presented to us today.

WARREN moved, **COULTER** seconded the motion.

GAROFALO I have a concern about it when the applicant is asking for limited manufacturing.

GOLTRY The limited manufacturing activity that is permitted within the "LC" district has some more stringent guidelines to make sure that it is an indoor activity. I would suggest that if you have limited manufacturing subject to the limitations of the "LC" commercial district, that you keep it to being an indoor type of use, and it also limits the number of employees as well.

GAROFALO Is limited manufacturing allowed under "GC"?

GOLTRY Yes.

WARREN I would like to amend my motion that if you have limited manufacturing, it be subject to the limitations of the "LC" commercial district, so that you do keep it to being an indoor type of use and it also limits the number of employees as well.

COULTER I would agree with the suggested amendment.

MOTION: To modifying the staff comments to accept the applicants modification as presented to us today and that if you had limited manufacturing subject to the limitations of the "LC" commercial district that you do keep it to being an indoor type of use and it also limits the number of employees as well.

WARREN moved, **COULTER** seconded the motion, and it carried (12-1) **BISHOP** opposed.

10. **Case No.: CON2003-09** – Larry Angel request Sedgwick County Conditional Use to permit an accessory apartment in an existing barn on property zoned "RR" Rural Residential on property described as;

Beginning at a point 1091.61 feet south of the Northeast corner of the Northeast Quarter of Section 2, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence West along the North edge of paved driveway 781.2 feet; thence North parallel to the east line of said Northeast Quarter, 185 feet; thence West parallel to the North line of said Northeast Quarter, 538.80 feet; thence South parallel to the east line of said Northeast Quarter, 420.05 feet; thence East parallel to the north line of said Northeast Quarter, 538.80 feet; thence North parallel to the east line of said Northeast Quarter, 223.05 feet to the south edge of paved driveway; thence East along the south side of the paved driveway 781.20 feet; thence North 12 feet to the point of beginning. Generally located South of 77th Street North and west of Oliver.

BACKGROUND: The applicant is requesting a "Conditional Use" to allow an accessory apartment on an approximately 4.60-acre site located on the southwest of 77th Street North – Oliver intersection, 7633 North Oliver Street. The property is zoned "RR" Rural Residential. The applicant proposes to convert a portion (750 square feet) of a 30-foot (x) 70-foot existing metal outbuilding into living quarters with one bedroom, kitchen, bath and living area for a parent. Since the living area will contain kitchen and sleeping quarters, it is classified as dwelling unit and thus requires "Conditional Use" approval for an accessory apartment.

The existing home is located approximately 800 feet west off of Oliver and approximately 200 feet northwest from another single-family residence. The applicant owns the approximately 152-acres surrounding the site, with exception being the 3.71 acres around the single-family residence 200-feet from the site. The applicant's site and the neighbor share a common drive. The surrounding area is rural in character, mostly agricultural fields and pastures with scattered single-family residences on acreage. The exception is a large lot subdivision (six 5-acre lots) approximately ¼ mile west of the site. The proposed site is 1 ½ mile north of Kechi and in its area of zoning influence

As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (d) the water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

CASE HISTORY: The property is unplatted. The Kechi Planning Commission approved the request for a conditional use for an accessory apartment, per Staff's recommendation, 6-0, at their May 13, 2003 meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	Agricultural
SOUTH:	"RR" Rural Residential	Agricultural
EAST:	"RR" Rural Residential	Agricultural
WEST:	"RR" Rural Residential	Agricultural

PUBLIC SERVICES: Oliver is currently a paved 2 lane arterial and 77th Street north is an unimproved township road. The 2030 transportation plan projects neither road's status to change. There are no traffic counts at this location and no CIP projects. The site is in Rural Water District #2. The site has septic; there is no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The 2001 Sedgwick County Development Guide Land Use Guide of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this area as "rural". The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions being completed within a year:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code, except for the architectural compatibility requirement, which shall be waived.
2. Provide an accurate metes and bounds description of the approximately 4.60 acre site prepared by a licensed surveyor.
3. The applicant shall obtain all applicable permits, including but not limited to building, health, and zoning.
4. The accessory apartment shall be smaller than the principal residence or 750 square feet in size as stated in the application.
5. Any violation of these conditions shall render this Conditional Use Permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is rural agricultural and pastureland in character, with scattered single-family residences on acreage. The closest single-family residence is 200-feet southeast of the site, with all other residences over ¼ mile away.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a "Conditional Use" in "RR" provided the applicant and the site meet the specified criteria. The applicant and the site appear to meet these criteria except for the architectural compatibility requirement.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effect should be minimized by the large size (152 acres) of the applicant's property around the approximately 4.60-acre site, which is more than ample to maintain a rural character.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "RR". This application appears to comply with all the provisions outlined, except for the architectural compatibility requirement, in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The applicants' request should have a minimal impact on community facilities.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

11. **Case No.: CON2003-13** – Via Christi Property Services c/o Diana M. Kidd (owner); T-Mobile c/o George Wyrick (applicant); Ferris Consulting c/o Greg Ferris (agent) request Conditional Use to permit a 130-foot high monopole tower on property zoned "GO" General Office on property described as;

A tract of land in and being a part of Lot 31, Gilders Riverside Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said Lot 31; thence North 89 degrees 04'49" East, along the North line of said Lot 31, a distance of 163.90 feet; thence South 00 degrees 56'48" East, parallel with the East line of said Lot 31, a distance of 77.00 feet to the point of beginning; thence North 89 degrees 04'49" East, parallel with said North line, a distance of 50.00 feet; thence South 00 degrees 56'48" East, parallel with said East line, a distance of 55.00 feet; thence South 89 degrees 04'49" West, parallel with the South line of said Lot 31, a distance of 50.00 feet; thence North 00 degrees 56'48" West, parallel with the said East line, a distance of 55.00 feet to the point of beginning. Generally located North of 25th Street North and east of Amidon.

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 130-foot high monopole tower (see attached elevation rendering and photograph) for use by T-Mobile. The proposed site is zoned "GO" General Office. Wireless Communication Facilities over 65 feet in height in the "GO" General Office zoning district may be permitted with a Conditional Use.

The character of the surrounding area is primarily residential with some neighborhood serving commercial uses in the vicinity. The properties north, south, and east of the subject property are zoned "SF-5" Single-Family Residential. The properties to the south and east are developed single family residences. The closest residence is located 70 feet south of the base of the proposed tower

and a total of four residences are located within a 200-foot radius of the proposed tower. The property to the north is developed with a church, which also is located within a 200-foot radius of the proposed tower. The property to the west is zoned "LC" Limited Commercial and is developed with a service station.

The proposed tower would be sited on a 2,750 square foot area located north of 25th Street North and east of Amidon on a 0.66 acre vacant office lot. The site plan (attached) depicts an 55-foot by 50-foot compound with the tower located in the center of the compound. The proposed tower would be located only 30 feet from the south and east property lines. Since the properties to the south and east are zoned "SF-5" Single Family, the Compatibility Height Standard of the Unified Zoning Code requires the tower to be set back 130 feet from both property lines unless the setback requirement is reduced through approval of the Conditional Use request. The site plan depicts a 6-foot high stockade fence around the entire compound, which meets the screening requirement of the Unified Zoning Code. The site plan shows that existing trees north of the equipment compound will be maintained; however, existing trees south and east of the equipment compound are not proposed to be maintained. The Landscape Ordinance requires buffer shade trees along the south and east property lines where the proposed tower shares a common property line with residential development, and the existing shade trees would meet this requirement were they to be maintained. Absent the maintenance of the existing trees, new shade trees would be required along the south and east sides of the equipment compound in order to comply with the Landscape Ordinance.

The applicant indicates that the proposed tower is needed for T-Mobile to provide coverage along I-235 and the residential areas north of 29th Street North and south to 21st Street North (see attached letter dated April 11, 2003 and radio frequency engineering evaluation and propagation plots). The applicant indicates that two existing towers in the area were evaluated for potential co-location rather than proposing the construction of a new tower and that neither tower meets the applicant's communication needs. One of the existing towers evaluated by the applicant is located at Twin Lakes Shopping Center, three-quarter miles southeast of the proposed tower. The other tower evaluated by the applicant is located near Amidon and the Big Ditch, three-quarter miles northwest of the proposed tower.

The applicant also indicates that locating on both existing towers rather than constructing a new tower was considered even though locating on two towers instead of one is significantly more expensive (see attached cost comparison). The applicant's letter indicates that even in combination the two existing towers do not provide the needed coverage; however, the applicant did not provide a radio frequency propagation plot showing the coverage of the two existing towers in combination for review by planning staff. Planning staff contacted the applicant regarding this issue, and the applicant indicated that a specific analysis of the two existing towers in combination had not been performed because of the significant cost difference between using two towers instead of one. The applicant did reiterate the claim that using the two existing towers in combination will not meet their communication needs, but no documentation of that claim has been submitted.

While planning staff concedes that the Unified Zoning Code does not require locating antennas on multiple towers if it is more expensive than constructing a new tower, it is the opinion of planning staff that locating a tall structure such as the proposed 130-foot high tower in such close proximity to residences would have significant detrimental impacts on residential properties in the area. The proposed tower location is very similar to the infamous College Hill tower proposal in that the proposed tower would be located right on the border between residential and non-residential properties and very close to existing residences. The College Hill tower proposal led to a moratorium on tower construction to allow for the development of a Wireless Communication Master Plan to guide the location of new towers, and the proposed tower location does not meet the spirit or intent of the Wireless Communication Master Plan. Therefore, planning staff cannot support the Conditional Use request and recommends that the applicant pursue other options, up to and including locating antennas on both existing towers in the vicinity.

Planning staff requested that the applicant provide documentation as to whether or not a shorter tower with flush mounted antennas such as the tower the applicant developed on the northwest corner of Central and Rock would work at the proposed tower location. Like the intersection of Central and Rock, the intersection of 25th Street North and Amidon has tall poles for electric transmission lines and a shorter tower with flush mounted antennas would blend in with these other tall poles and significantly reduce the detrimental impacts on residential properties in the area. The applicant did not provide the documentation planning staff requested regarding this option.

Another option planning staff recommends that the applicant pursue is to attempt to locate the proposed tower on a parcel of land in the vicinity where the proposed tower would not be located in such close proximity to existing residences. One possibility would be to locate the proposed tower behind the service station at the shopping center located one block north of the subject property. Such a location would comply with the Unified Zone Code setback requirements for towers and the Wireless Communication Master Plan design guideline that towers be situated such that existing buildings partially block the tower from view from nearby residential areas. Such an alternative site option also could be combined with the option for a shorter tower with flush mounted antennas to further reduce the detrimental impacts of the proposed tower.

CASE HISTORY: The subject property is platted as a part of Lot 31, Gilders Riverside Addition, which was recorded on July 25, 1930

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Church
SOUTH:	"SF-5"	Single Family
EAST:	"SF-5"	Single Family
WEST:	"LC"	Service station

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed through an existing gravel drive to Amidon, a four lane arterial street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication

Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is primarily residential with some neighborhood serving commercial uses in the vicinity. With the exception of the property to the west, all of the properties surrounding the site are zoned "SF-5" Single-Family Residential, and they are primarily developed with single family residences. The proposed tower is not compatible with the residential zoning, uses, and character that are predominate in the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GO" General Office and is suitable for development with a office uses. A wireless communication facility in excess of 65 feet in height in the "GO" General Office zoning district may be permitted as a Conditional Use, but it should conform to the guidelines of the Wireless Communication Master Plan. The proposed wireless community facility does not conform to the guidelines of the Wireless Communication Master Plan and, therefore, is not suitable for the subject property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed wireless communication facility would be located in close proximity to single-family residences. The visual impact on the surrounding neighborhood would have significant detrimental impacts on the nearby properties. No low-density residential neighborhood in the community has a commercial tower located in such close proximity to residences due to the detrimental affects of the visual impact of towers.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed 130-foot high monopole does not conform to the guidelines of the Wireless Communication Master Plan or the requirements of the Unified Zoning Code.

First, the proposed facility does not utilize existing towers or other tall structures in the area. Insufficient documentation has been provided to substantiate that co-location on existing towers or other tall structures is not feasible. Approving a new tower to be constructed at the proposed location would lead to an unnecessary proliferation of towers in the area.

Second, the proposed facility does not preserve the pre-existing character of the area, which is predominately low-density residential with some neighborhood serving commercial uses in the vicinity. Planning staff reviewed the locations of existing towers in the community and could not locate another tower that is located as close to the property line of property zoned "SF-5" Single Family as the 30 feet proposed in this request. Most towers in the community are located completely outside residential neighborhoods, and if they are located on the edge of residential neighborhoods, they are set back significantly more from residential properties than proposed in this request. Approving a new tower to be constructed at the proposed location would detrimentally affect the existing character of the surrounding residential neighborhood.

Third, the proposed facility does not minimize the height, mass, or proportion of the facility. The Wireless Communication Master Plan indicates that in some cases one taller support structure may present a greater visual impact than several shorter support structures. Locating the proposed 130-foot high tower in such close proximity to residences will have a significant visual impact on the neighborhood that could be avoided by constructing a shorter tower with flush mounted antennas. A shorter tower with flush mounted antennas could be used in combination with co-location on existing towers or other tall structures in the area if the shorter tower alone does not meet the applicant's communication needs. The applicant has not submitted requested documentation that a shorter tower will not meet their communication needs.

Fourth, the proposed facility is not placed in an areas where trees and/or buildings adequately obscure some or all of the facility from view from nearby residences. The applicant indicates that an office building is proposed to be constructed on the subject property that would obscure some of the tower from view, but there is no guarantee that this building will ever be constructed. The applicant does not propose to maintain existing mature shade trees located between the proposed tower and existing residences located to the south and east. The Landscape Ordinance requires that shade trees be planted along the property line where non-residential development abuts residentially-zoned property. The applicant's request does not conform to the Landscape Ordinance's buffer tree requirements.

Finally, the proposed 130-foot high facility does not conform to the compatibility height standard since it is proposed to be set back only 30 feet from property zoned "SF-5" Single Family located south and east of the subject property. While the applicant states that the tower is proposed to be located in the corner of the parent tract to preserve the remainder of the property for office development, the fact that the proposal does not meet the compatibility height standard is a strong indication that the subject property is inappropriate for a tower at the height requested.

If, after closing the public hearing, the planning commission finds that the should be approved, the planning commission motion to approve will need to include findings of fact regarding the Unified Zoning Code Review Criteria that support approval and planning staff recommends that approval should be subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be 130 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extension to 160 feet and future loading expansion to accommodate communication equipment for at least four wireless service providers.
- F. A revised site plan shall be submitted within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, and prior to the release of the Conditional Use resolution. The revised site plan shall provide for the continuous maintenance of the existing trees on the parent tract that are located immediately north, south, and east of the equipment compound. Said trees shall remain even if the remainder of the parent tract is developed.
- G. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- H. Approval of the Conditional Use constitutes a reduction of the Compatibility Height Standard to 30 feet from the south and east property lines for the wireless communication facility.
- I. The site shall be developed in general conformance with the approved site plan and elevation drawings. All improvements shall be completed before the facility becomes operational.
- J. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- K. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SCOTT KNEBEL, Planning Staff presented staff report.

MCKAY Abstains because he owns property within the notification area.

MARNELL Would this request be here if it was at 85 feet because of the setback compatibility?

KNEBEL Staff does have the ability to reduce the compatibility setback as well with an Administrative Adjustment request. This property is zoned "GO", so staff would only be able to permit a tower up to 65 feet on this property. Were they to request 65 feet with a flush mounted antenna back in this corner where those trees are, staff would probably consider something like that favorably. That would much better meet the criteria of the master plan than what is being proposed.

BARFIELD This is bordered on three sides by residential. Do you know how close?

KNEBEL That is correct. It is bordered on three sides by residential zoning and two sides by residential uses. The property line to both the south and east is 30 feet from the base of the tower. The nearest structure is 70 feet from the base of the tower.

GREG FERRIS, FERRIS CONSULTING, The applicant, T-Mobile, is getting a lot of calls from users that are not happy because the service is not good . At least 10 or 12 users a week have problems. I don't believe the proximity in a backyard should be a problem. Where this is located there are only 4 houses within 200 feet of this. If you look up and down Amidon you see a car wash and churches, so while it shows up all white on the map it is not all single-family residential. There is a large electrical pole at 25th and Amidon that is as big as a cell tower. It is as big around as a cell tower. It is 60 to 70 feet tall, and I contend that when you go up a few feet from there that people don't notice it as much.

We did however evaluate flush mounted antennas in this area and frankly this area has a high capacity demand. You can only put three mounted antennas on a pole using a flush mount. When you put three antennas on a pole instead of the six that you normally place, then you have cut your capacity of that site in half. However, we do believe that we can lower the height of this tower to 120 feet without significant interference with our coverage objectives. If, however, the height is a huge issue, we could construct a 100 foot pole on this site if it was not flush mount. We would prefer the 120 because that would keep us from having to look further to the east. When you go east there is really no place to put a tower. It is all residential there, so we have to try and cover that from a more institutional or a commercially used area.

We have to be obscured partially or completely by trees or buildings, and staff recommended a site to the north that had a small gas station that would not be as obscured by trees. The reason that we are so close to residential here is so that we can take advantage of some fairly significant trees that are in that area to hide a portion of the pole.

This property has been vacant for over 30 years. We have a purchaser of the property contingent to the approval of this conditional use. We have lowered the height from 150 to 120, and if the MAPC sees fit we will lower to 100, but we prefer not to. It is a monopole that reduces the visual image. The facility will be placed where trees and buildings will obscure the facility from view. It will not be lit, and it will have a solid wood fence around it.

WELLS Where is the picture for Amidon looking back?

FERRIS I will show you on the aerial.

LESTER MCGUIRE, 2926 PORTER, WICHITA KS 67204, Benjamin Hills Assoc. Board member: I have done a survey of the 8 residents, and 6 of them said they don't want the tower there, and I had two that said it does not matter to them. Wichita has passed an ordinance regarding where and how these towers are supposed to be put. This is not why the ordinances were given so we can make exceptions all the time. Property values and aesthetic concerns, radio and TV interference and child safety are the concerns we have. This is too close to the residential. This tower will be an eye sore in our neighborhood. Staff recommended denial and I wish that you would as well.

BILL BAKER, 2600 N. Amidon, Full Service Phillips station Automobiles are getting a lot of different electronics in them. I don't want any interference with any diagnostic equipment that I have and use for my business. They have alternatives of where to put this, and I don't want this in our neighborhood. I am against this Conditional Use and people in this neighborhood are against this request as well.

AM CONSULTING, TIM AUSTIN, representing Brad Murray Rentals, basically we do not believe the applicant has met or proved that it is economical hardship. The FCC test for providing options or alternatives to citing towers is not an expense based test or threshold. There have been many studies around the nation where carriers were required to utilize facilities or methods such as the camouflage structured that are far more expensive, so cost should not be the sole reason.

We would take issue with the tower at Twin Lakes is not sufficient for there needs. I noticed on the propagation study that was done and provided was that it was done at the 130 foot level, which is the same height for which they are looking at building. There doesn't seem to be any other propagation studies for heights other than 130 feet. Mr. Murray's tower can be extended up to 190 feet, and we believe that is something that they should explore. Also they should look at directional antennas to specifically target the Benjamin Hills area and also look at signal strength. The Twin Lakes tower is available and willing to negotiate with Voice-Stream to give them a lease rate.

WARREN How far is Twin Lakes?

AUSTIN About ¾ of a mile.

FERRIS The distance from that is 0.917 miles. I don't know where Mr. Austin is going with this. It would be cheaper for us to go on Mr. Murray's tower. It is not cheaper to do two towers, and his one tower does not meet the service needs or come close to the service needs that we require. So it is about the location of the facility. A mile is very significant in a residential area. There is no way that anything we will be doing on that tower that will interfere with the gentlemen who owns the service station. We will have less safety issues then a vacant lot that has an abandoned car on there now. There will be no negative impacts on property values.

BARFIELD Do you know if the tower at Twin Lakes was extended to 190 feet that wouldn't be of any benefit to you?

KENNY JORGENSEN, RF ENGINEER, T-MOBILE, WIRELESS, 4533 ENTERPRISES DRIVE, OKLAHOMA CITY OK I don't think 190 feet is going to cover it. We have done additional studies before. We tried to use that as a tower especially around I-235 and north of 25th Street. It wasn't good for residential coverage.

BARFIELD So you are saying that there is no way that you can use that tower at Twin Lakes?

FERRIS The original carrier they put up a lot of sites in the area, and now this system meshes together once Voicestream bought that and now T-Mobile, and that is where the challenges lie.

GAROFALO Mr. Jorgensen, have you tested from that tower at Twin Lakes at 190 feet?

FERRIS They don't go to the tower site itself and run test from there because they don't have equipment to do that. They have computer modeling techniques, and this is what is accepted in the industry. They know where their antennas are the down tilts, and they import those into a computer model and those are then integrated with all the other facilities and what those areas of coverage are and the integration and then that is what you see when you see the plots that you have. They have done that on at least two occasions that I know of.

BARFIELD It seems like we have a tower almost every meeting and how come these towers can't co-locate and share? We need to be careful so that are city is not cluttered with towers that don't look good and are not being used.

MOTION: To Deny.

BARFIELD moved, **BISHOP** seconded the motion, and it was moot (5-5-1) (**MCGINTY, MICHAELIS, BISHOP, BARFIELD, GAROFALO**, support the denial.) (**MCKAY** abstains).

WARREN It bothers me that Bell Telephone and Western Resources can put a monopole right in the front yard and never get a building permit and it is as big and ugly as anything we are looking at here.

BARFIELD These wireless people need to go and try to make some kind of agreement with them to extend their tower on there.

HENTZEN On Condition #4 to deny you state that adopted or recognized Comprehensive Plan what does that mean? What is the difference between the adopted and the recognized?

KNEBEL That wording comes directly out of a court case.

MILLER The Planning Commission policy statement policy #10 is pulled "verbatim" off Policy #10. So for us not to use the word recognize, the Planning Commission would have to change that Policy or direct staff to stop using that part of the policy.

KNEBEL On Item #4 everything that is referenced in there references a that has been duly adopted by the Planning Commission, the BOCC, and the WCC. There are no recognized plans referenced.

MARNELL I think the height problem has very little to do with this. The screening is what we need to work on.

MOTION: To approve 120 foot tower at that location, change Condition D to 120 foot and eliminate Condition E.

MARNELL moved, **WARREN** seconded the motion.

MOTION: To APPROVE is moot 5-5-1. (**MCGINTY, MICHAELIS, BISHOP, BARFIELD, GAROFALO**, oppose approval). (**MCKAY** abstains)

MILLER The moot votes result in a denial unless there is another motion that passes that is different than the two moot motions.

KNEBEL The applicant can appeal the Denial to the City Council.

12. Case No.: DR03-13 - The City of Maize seeks annexation of properties located east of N. Maize Road and north of 37th Street North

David Barber, MAPD staff reported that the City of Maize passed Resolution No. 337-03 authorizing a public hearing on June 30th, 2003 for the purposes of considering the unilateral annexation of properties located east of N. Maize Road and north of 37th Street North, in the area platted as The Sanctuary. The proposed annexation area falls within the City of Wichita 2010 Urban Growth area, as established in the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in 2002. This area has **not** been designated as small city growth areas for the City of Maize. The Wichita-Sedgwick County Comprehensive Plan is the plan that has statutory jurisdiction over the annexation area. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 337-03 of the City of Maize, to be **inconsistent** with the adopted Wichita-Sedgwick County Comprehensive Plan.

MOTION: To deny per staff comments.

BISHOP moved, **MICHAELIS** seconded the motion, and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at 5:05 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)